

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : 08-CR-76

v. : U. S. Courthouse

CHARLES CARNEGLIA, : Brooklyn, New York

Defendant. : January 26, 2009

: 9:30 o'clock a.m.

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TRANSCRIPT OF TRIAL  
BEFORE THE HONORABLE JACK B. WEINSTEIN  
UNITED STATES DISTRICT JUDGE, and a jury.

APPEARANCES:

For the Government:

BENTON J. CAMPBELL  
United States Attorney  
By: ROGER BURLINGAME  
EVAN NORRIS  
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For the Defendant:

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-and-  
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Proceedings recorded by mechanical stenography, transcript  
produced by CAT.

1 (In the jury room.)

2 THE COURT: Good morning, everybody.

3 Madam case coordinator, I have this letter of  
4 January 24, asking that the jurors not reveal their names.

5 Would you tell them that.

6 THE CLERK: Yes, your Honor.

7 THE COURT: Mark this as Court Exhibit 1.

8 Court Exhibit 2, January 25, 2009, letter of the  
9 government with respect to the acid reference. I'll take that  
10 on submission.

11 Are you submitting anything for the defendant?

12 MS. SHARKEY: Yes.

13 THE COURT: Submit it by this evening. I'll decide  
14 it in the morning.

15 MS. SHARKEY: Okay.

16 THE COURT: Court Exhibit 3, January 23 letter of  
17 the government, filed under seal, Brady material. No action  
18 is required.

19 Any other actions this morning?

20 MS. SHARKEY: Judge, I think we would object to  
21 three FBI agents being present in the jury room. I mean -- or  
22 three case agents from the government. I don't see the  
23 necessity for it. Certainly one to assist them, I understand  
24 that. We've released our paralegal, because we don't think  
25 it's necessary. I think it's overkill. We have the marshal,

1 completely competent for safety purposes.

2 THE COURT: Denied.

3 MR. BURLINGAME: Judge, I want to bring something to  
4 the Court's attention.

5 THE COURT: They don't overwhelm anybody. They look  
6 like anybody else. No way of telling they are an FBI agent.

7 MR. BURLINGAME: I wanted to bring to the Court's  
8 attention, this morning I made a boneheaded mistake, which was  
9 in the elevator. I ran into Mr. Mancuso, and I asked if he  
10 was doing today's proceedings. He said, yes, and I made a  
11 joke about, Well, make sure to extensively say things about --  
12 carefully take down the people who don't like the cooperating  
13 witnesses. And then I realized that I was in the elevator  
14 heading to the tenth floor, and, of course, there was one  
15 person on the elevator who appeared to be a juror. I don't  
16 know which juror they are. I can point out to the Court who  
17 they are. I am extremely sorry about who they are.

18 THE COURT: The only jokes in this case are going to  
19 be made by me.

20 Bring in the first juror, Number One.

21 MS. SHARKEY: After we go through this, do you  
22 intend to shuffle the numbers and stick them in the box?

23 THE COURT: These are the shuffled numbers.

24 MS. SHARKEY: So, is Juror One -- Juror One on the  
25 questionnai re?

1 THE COURT: I'll find out.

2 THE CLERK: Yes, your Honor.

3 THE COURT: What order are they coming in in?

4 THE CLERK: I asked the parties. They wanted it  
5 shuffled after you were finished.

6 THE COURT: Don't ask the parties for anything.  
7 They have to be seated at random in the box. Why aren't these  
8 shuffled? Why?

9 THE CLERK: I asked them about it on Friday, and  
10 that's what they wanted, it shuffled after the jury selection  
11 had taken place.

12 THE COURT: They have to be shuffled now, because  
13 I'm selecting them as we always do.

14 MS. SHARKEY: Judge, I apologize.

15 THE COURT: Excuse me.

16 The parties do not decide anything in this case  
17 except as I decide it. Is that clear?

18 MR. BURLINGAME: Yes. We didn't actually do that.  
19 There was some confusion.

20 THE COURT: There's no confusion. They are brought  
21 in in a shuffled order, so that when I seat them in the box,  
22 that's the seat they take. There's no shuffling later.

23 How long will it take you to shuffle these numbers?

24 THE CLERK: Five minutes.

25 THE COURT: All right. We'll adjourn for ten

1 minutes. Stay here in this room.

2 MS. SHARKEY: May I ask a question before we  
3 adjourn?

4 THE COURT: Yes.

5 MS. SHARKEY: You're shuffling, and it was a  
6 miscommunication. We apologize for inconveniencing the Court.  
7 You are putting these jurors, the shuffled jurors, in left to  
8 right in the box after this?

9 THE COURT: It's right to left.

10 MS. SHARKEY: It's right to left?

11 THE COURT: Yes, stage right.

12 MS. SHARKEY: Stage right.

13 And it's One through Six?

14 THE COURT: One through Six, Seven through 12,  
15 selected. And then we'll do the alternates.

16 MS. SHARKEY: Got it.

17 THE COURT: So, we'll have eighteen people in the  
18 box in a shuffled order.

19 MS. SHARKEY: Okay.

20 MR. BURLINGAME: We'll be able to have a sheet, so  
21 we can figure out what the new number is as it correlates to  
22 the old number?

23 THE COURT: I suppose so.

24 (Recess.)

25 THE CLERK: Okay.

1           53 is going to be Juror Number One, the first juror  
2 called.

3           25 is Juror Number Two.

4           27, Juror Number Three.

5           30, Juror Number Four.

6           50, Juror Number Five.

7           88, Juror Number Six.

8           How many jurors are we supposed to have?

9           MR. BURLINGAME: Eighty-one.

10          THE CLERK: With jurors that are supposed to come  
11 back; right?

12          MR. BURLINGAME: Yes.

13          (Pause.)

14          THE CLERK: 30 is Juror Number Four.

15          50 is Juror Number Five.

16          Eight is Juror Number Six.

17          29 is Juror Number Seven.

18          78 is Juror Number Eight.

19          62 is Juror Number Nine.

20          114 is Juror Number Ten.

21          Four is Juror Number 11.

22          71 is Juror Number 12.

23          71 called to say he was just taking his child out of  
24 the emergency room, so he isn't here.

25          MR. FARBER: Which number is that?

1 THE COURT: 71, who is now Juror Number 12.  
2 But I'm going to leave it like that, and let the  
3 judge deal with it.

4 45 is Juror Number 13.

5 38 is Juror Number 14.

6 65 is Juror Number 15.

7 41 is Juror Number 16.

8 49 is Juror Number 17.

9 57 is Juror Number 18.

10 11 is Juror Number 19.

11 39 is Juror Number 20.

12 68 is Juror Number 21.

13 101 is Juror Number 22.

14 20 is Juror Number 23.

15 61 is Juror Number 24.

16 34 is Juror Number 25.

17 107 is Juror Number 26.

18 Eight is Juror Number 27.

19 100 is Juror Number 28.

20 60 is Juror Number 29.

21 Ten is Juror Number 30.

22 90 is Juror Number 31.

23 Nine is Juror Number 32.

24 26 is Juror Number 33.

25 116 is Juror Number 34.

1           16 is Juror Number 35.  
2           54 is Juror Number 36.  
3           18 is Juror Number 37.  
4           93 is Juror Number 38.  
5           40 is Juror Number 39.  
6           110 is Juror Number 40.  
7           36 is Juror Number 41.  
8           THE CLERK: 12 is Juror Number 42.  
9           105 is Juror Number 43.  
10          85 is Juror Number 44.  
11          35 is Juror Number 45.  
12          One is Juror Number 46.  
13          106 is Juror Number 47.  
14          113 is Juror Number 48.  
15          84 is Juror Number 49.  
16          48 is Juror Number 50.  
17          83 is Juror Number 51.  
18          66 is Juror Number 52.  
19          42 is Juror Number 53.  
20          21 is Juror Number 54.  
21          46 is Juror Number 55.  
22          94 is Juror Number 56.  
23          89 is Juror Number 57.  
24          118 is Juror Number 58.  
25          14 is Juror Number 59.



1 82 is Juror Number 60.

2 47 is Juror Number 61.

3 Two is Juror Number 62.

4 33 is Juror Number 63.

5 32 is Juror Number 64.

6 Seven is Juror Number 65.

7 98 is Juror Number 66.

8 31 is Juror Number 67.

9 75 is Juror Number 68.

10 76 is Juror Number 69.

11 77 is Juror Number 70.

12 44 is Juror Number 71.

13 81 is Juror Number 72.

14 Five is Juror Number 73.

15 13 is Juror Number 74.

16 23 is Juror Number 75.

17 80 is Juror Number 76.

18 79 is Juror Number 77.

19 102 is Juror Number 78.

20 Three is Juror Number 79.

21 108 is Juror Number 80.

22 120 is Juror Number 81.

23 (Pause.)

24 THE COURT: Call the first juror, please.

25 Everything has been reshuffled and the jurors are now being

1 called in by random selection.

2 MS. SHARKEY: Judge, can I ask one clarification  
3 question?

4 THE COURT: No.

5 MS. SHARKEY: That's okay.

6 (Prospective Juror enters jury room.)

7 THE COURT: Good morning, sir.

8 THE PROSPECTIVE JUROR: Good morning, sir.

9 THE COURT: You are Juror 53, are you?

10 THE PROSPECTIVE JUROR: 53.

11 I wish I was fifty-three.

12 THE COURT: Did you have any trouble getting here  
13 this morning?

14 THE PROSPECTIVE JUROR: No. I took the old A train.

15 THE COURT: Yes. That's still reliable, isn't it?  
16 They have not raised the fare yet on that.

17 THE PROSPECTIVE JUROR: Oh, God.

18 THE COURT: Now, you understand that the jury is  
19 going to decide only on what they hear in this court, not on  
20 what they know from outside the court; right?

21 THE PROSPECTIVE JUROR: That's correct, yes.

22 THE COURT: And on my instructions; right?

23 THE PROSPECTIVE JUROR: Yes.

24 THE COURT: Now, your brother-in-law had a problem.  
25 What happened?

1           THE PROSPECTIVE JUROR: My brother-in-law was  
2 murdered twenty-five years ago. As I tried to explain in the  
3 sheet, he was killed for no reason at all. He was working.  
4 He worked for New York City Housing, and while on the job,  
5 somebody hit him with a fence post. I wanted to detail -- a  
6 man got up that morning, told his mother he wanted to kill a  
7 white man. My brother-in-law, the wrong place at the wrong  
8 time.

9           THE COURT: That's terrible.

10          But you understand this defendant --

11          THE PROSPECTIVE JUROR: This has nothing to do with  
12 it. Well, I think it specifically said, Was anybody ever  
13 murdered in your family?

14          THE COURT: I appreciate that, and we all certainly  
15 give you condolences. Even though it happened a long time  
16 ago, it's hard to get over those things.

17          Do you think you can be fair and impartial?

18          THE PROSPECTIVE JUROR: One thing I didn't put down,  
19 because I really didn't realize it while I was filling this  
20 out. My wife originally came from East New York, and I  
21 believe some of the people involved in this procedure came  
22 from East New York, also. Talking the other day, I mentioned  
23 it to my wife, and I recalled a few names on that list at the  
24 end that she happened to know people of the same name, could  
25 have been family, could have been far away from the family.

1 THE COURT: You mean last names?

2 THE PROSPECTIVE JUROR: Yes.

3 I also noticed on that list was a restaurant  
4 Carosella's. That's in Howard Beach, and I live very close to  
5 Howard Beach. Not to say I'm nervous or anything, concerned.

6 THE COURT: Well, that's understandable. There's  
7 crime in every neighborhood in New York, as you know.

8 THE PROSPECTIVE JUROR: True. True.

9 THE COURT: The main thing I want to know is whether  
10 you will follow my instructions and decide only on the  
11 evidence, and put out of your mind anything you may have  
12 known, and certainly not discuss it with your wife or anyone  
13 else?

14 THE PROSPECTIVE JUROR: I'll try, sir.

15 THE COURT: Okay.

16 Would you mind waiting outside?

17 Any other questions?

18 MS. SHARKEY: No. Thank you.

19 THE COURT: Wait outside for a moment, sir.

20 (Prospective juror leaves jury room.)

21 THE COURT: Any objection for cause?

22 MS. SHARKEY: No, your Honor.

23 MR. NORRIS: One moment, your Honor.

24 (Pause.)

25 THE COURT: We'll consider all of these notes, which

1 have the juror numbers and the questionnaires, as marked,  
2 without having to mark them, there's so many papers.

3 MR. BURLINGAME: Judge, we would move to strike the  
4 juror for cause. He appeared scared. He seemed hesitant to  
5 say that he could decide the case solely on the facts, and he  
6 had some familiarity with Carosella's, which is one of the  
7 defendant's most frequent hangouts in the last few years.

8 THE COURT: Motion denied. He seems to be an  
9 upright, stalwart, candid citizen.

10 MR. BURLINGAME: I was not suggesting otherwise.

11 MS. SHARKEY: Is he Juror Number One in the box?

12 THE COURT: He will be.

13 THE CLERK: What instructions for him, your Honor?

14 THE COURT: Just sit there. One. He's Juror One.

15 THE CLERK: Okay.

16 THE LAW CLERK: This is Juror Number 25, only from  
17 the government.

18 Mr. Farber, nothing for 25?

19 MR. FARBER: We didn't have any questions.

20 (Prospective juror enters jury room.)

21 THE COURT: Good morning. How are you?

22 THE PROSPECTIVE JUROR: Good morning. How are you  
23 this morning?

24 THE COURT: Nice to see you.

25 THE PROSPECTIVE JUROR: I feel like I'm at a

1 conference today.

2 THE COURT: I see you're all bundled up there. A  
3 little cold?

4 THE PROSPECTIVE JUROR: Yes.

5 THE COURT: It will be spring before you know it.  
6 You're Juror 25?

7 THE PROSPECTIVE JUROR: Yes, I am.

8 THE COURT: Now, you were a juror previously; right?

9 THE PROSPECTIVE JUROR: Yes.

10 THE COURT: Anything in that jury service that would  
11 impair your ability in this case?

12 THE PROSPECTIVE JUROR: No.

13 THE COURT: 84B, you do have some feeling about  
14 cooperating witnesses; correct?

15 THE PROSPECTIVE JUROR: No.

16 THE COURT: The question is: "Do you have feelings  
17 about a witness seeking a reduced sentence that would make it  
18 difficult for you to fairly and impartially consider that  
19 testimony or to render a guilty verdict based on the testimony  
20 of such witness?" And you checked --

21 THE PROSPECTIVE JUROR: That's correct.

22 THE COURT: You checked "Yes."

23 THE PROSPECTIVE JUROR: Yes.

24 THE COURT: Well, you understand that it's legal to  
25 have such a witness?

1 THE PROSPECTIVE JUROR: I'm not sure, so I'm glad  
2 you clarified it.

3 THE COURT: And I will explain how to evaluate the  
4 testimony of such witnesses, and will you follow my  
5 instructions?

6 THE PROSPECTIVE JUROR: Yes, I will.

7 THE COURT: Anything further?

8 MS. SHARKEY: No, your Honor.

9 MR. BURLINGAME: Yes, your Honor.  
10 Do you want me to hand you the questions?

11 THE COURT: Yes, hand me the questions.

12 (Pause.)

13 THE COURT: Did you have any experience with a  
14 cooperating witness in your personal life.

15 THE PROSPECTIVE JUROR: No.

16 THE COURT: All right. Seat this juror as Juror  
17 Number Two.

18 THE CLERK: Yes, your Honor.

19 THE COURT: Thank you.

20 (Prospective juror leaves jury room.)

21 THE COURT: Any objections for cause?

22 MS. SHARKEY: No, your Honor.

23 MR. BURLINGAME: No, your Honor.

24 THE LAW CLERK: This is Juror Number 27.

25 (Prospective juror enters jury room.)

1 THE COURT: Good morning.

2 THE PROSPECTIVE JUROR: Good morning, Judge.

3 THE COURT: How are you?

4 THE PROSPECTIVE JUROR: Good.

5 THE COURT: How are you feeling?

6 THE PROSPECTIVE JUROR: Good.

7 THE COURT: A light jacket for such a cold day.

8 THE PROSPECTIVE JUROR: Yes.

9 THE COURT: Your metabolism is good.

10 THE PROSPECTIVE JUROR: Yes, overactive.

11 THE COURT: Overactive. It's good in the winter.

12 Now, on Question 84B and A, there's some inquiry  
13 about cooperating witnesses. You remember?

14 And you said you have difficulty in evaluating the  
15 testimony of such a witness --

16 THE PROSPECTIVE JUROR: That's correct.

17 THE COURT: -- fairly, "and all guilty parties  
18 should do time. A person who cuts a deal carries no weight  
19 with me"?

20 THE PROSPECTIVE JUROR: That's correct.

21 THE COURT: That's what you said?

22 THE PROSPECTIVE JUROR: That's correct.

23 THE COURT: Now, these witnesses are legal  
24 witnesses. All the evidence the Court allows in is legally  
25 put into evidence and should be considered by the jury, and



1 you will have detailed instructions on how you give weight or  
2 not weight to cooperating and other witnesses, witnesses who  
3 committed crimes, witnesses who served and so on.

4 Do you understand that?

5 THE PROSPECTIVE JUROR: Yes, sir.

6 THE COURT: Will you follow my instructions?

7 THE PROSPECTIVE JUROR: Yes. I'll follow your  
8 instructions, yes.

9 THE COURT: Will you be a fair and impartial juror?

10 THE PROSPECTIVE JUROR: As far and as impartial as I  
11 could be, Judge.

12 THE COURT: Good. All right.

13 Any other questions?

14 MS. SHARKEY: No, your Honor.

15 MR. BURLINGAME: We do have a question.

16 THE COURT: Okay.

17 MR. BURLINGAME: Three questions, your Honor.

18 THE COURT: Have you ever had any personal  
19 experience with a cooperating witness?

20 THE PROSPECTIVE JUROR: Not me personally, but a  
21 relative of mine.

22 THE COURT: What was that?

23 THE PROSPECTIVE JUROR: My cousin in the '80s was  
24 convicted of rape and murder, and the testimony was based on  
25 cooperating witnesses with the police, who had bad track

1 records themselves.

2 He got -- the conviction got reversed twenty-five  
3 years later, after he did time, by a Barry Scheck and his DNA  
4 experts. My cousin did twenty-five years for the -- a crime,  
5 according to the DNA, he did not commit. That's why I wrote  
6 the answer the way I wrote that answer, Judge.

7 THE COURT: I see.

8 Everybody has individual anecdotal matters, and they  
9 are important --

10 THE PROSPECTIVE JUROR: Sure.

11 THE COURT: -- but the important thing is for a  
12 defendant to have an absolutely fair trial, which you would  
13 want in your case or this former relative; right?

14 THE PROSPECTIVE JUROR: That's correct, sir.

15 THE COURT: So, can you put aside those strong  
16 feelings and follow my instructions?

17 THE PROSPECTIVE JUROR: I could follow your  
18 instructions. Putting away the strong feelings, I'm not  
19 certain of, Judge. I'm being as honest as I could be. I  
20 respect your authority, and I would follow your instructions.  
21 My feelings are my feelings and my personal opinions of it.

22 THE COURT: Well, in deciding the case, can you put  
23 out of your mind your personal anecdotal experience and just  
24 decide on the evidence in the case?

25 THE PROSPECTIVE JUROR: I guess I could. Yes, your

1 Honor.

2 THE COURT: Okay.

3 Any further questions?

4 MR. NORRIS: One moment, your Honor.

5 (Pause.)

6 THE COURT: Thank you.

7 (Pause.)

8 THE COURT: You say your cousin was just an ordinary  
9 person?

10 THE PROSPECTIVE JUROR: That's correct.

11 THE COURT: He had nothing to do with criminals or  
12 mobs or anything else?

13 THE PROSPECTIVE JUROR: No, sir, not that I am aware  
14 of, sir. I can't speak personally for that.

15 THE COURT: When you say "I guess I could," you mean  
16 you would make every effort and think you would succeed?

17 THE PROSPECTIVE JUROR: I have strong feelings and  
18 that's who I am, and to compromise those -- again, I would  
19 follow your instructions. You asked me that question, and I  
20 said yes to your instructions.

21 THE COURT: Okay.

22 THE PROSPECTIVE JUROR: My personal feelings at that  
23 time will be determined by myself. I cannot answer that today  
24 without hearing what's going on and give you a fair answer.

25 I'm an Eagle scout. I was an altar boy. I have real strong

1 convictions and morals. I don't know how much more I could  
2 answer to that.

3 THE COURT: Are you strong enough to put aside this  
4 prior information and just weigh what you see in court?

5 THE PROSPECTIVE JUROR: I certainly have that  
6 ability, Judge.

7 THE COURT: Well, will you exercise it as a juror?  
8 That's the question. I mean --

9 THE PROSPECTIVE JUROR: If you need an answer today,  
10 I would say I would have troubles with that.

11 THE COURT: You would have too much trouble?

12 THE PROSPECTIVE JUROR: I would have trouble with  
13 that, because I know who I am as a person.

14 THE COURT: You are excused. Thank you.

15 THE PROSPECTIVE JUROR: Thank you.

16 (Prospective juror leaves jury room.)

17 THE COURT: Any objection?

18 MS. SHARKEY: Yes.

19 THE COURT: You object?

20 MS. SHARKEY: Absolutely.

21 Judge, for the record, this individual said, at  
22 least three different times, Although I have strong feelings,  
23 I would follow the Court's instruction. I respect your  
24 authority. I would follow your instructions. I could follow  
25 your instructions.

1           That this juror questions cooperating witnesses's  
2 testimony, frankly, is what a juror should do. They should  
3 weigh the credibility of a witness, and weigh a witness's  
4 motives to lie. The guy is a altar boy, an Eagle scout. He  
5 couldn't have been more deferential to the Court's authority.  
6 The government followed up with three, four questions, and the  
7 juror never said he couldn't follow your authority. He just  
8 said he would have trouble personally, but he could follow  
9 your authority and put his thoughts aside.

10           We respectfully ask that the Court seat that juror  
11 as Juror Number Three.

12           THE COURT: Denied.

13           Based on my observation of his demeanor, I believe  
14 that he could not possibly give any weight to a cooperating  
15 witness.

16           Next.

17           THE LAW CLERK: Juror Number 30.

18           (Prospective juror enters jury room.)

19           THE COURT: Sit here, sir.

20           THE PROSPECTIVE JUROR: Thank you.

21           THE COURT: Good morning. How are you feeling  
22 today?

23           THE PROSPECTIVE JUROR: Okay, thank you.

24           THE COURT: I see you have a sweater and coat.

25           THE PROSPECTIVE JUROR: It's a little cold today.

1 THE COURT: Is it cold? I didn't notice.

2 THE PROSPECTIVE JUROR: Just a little.

3 THE COURT: In answer to Question 61: Would the  
4 simple fact that a defendant is accused of being a member of  
5 organized crime make it difficult for you to fairly and  
6 impartially decide whether the defendant is guilty or not  
7 guilty?" You said, yes.

8 And you explained it by saying "If the evidence  
9 showed clearly that the defendant" -- and you  
10 underlined "clearly" -- "that the defendant was a member of  
11 an organized crime family, I would think that there may well  
12 be truth to the allegations. I would try to evaluate the case  
13 fairly, however."

14 You understand you are to decide the case solely on  
15 what you hear in the court?

16 THE PROSPECTIVE JUROR: Yes.

17 THE COURT: And that you are to follow my  
18 instructions scrupulously?

19 THE PROSPECTIVE JUROR: I understand.

20 THE COURT: And that the defendant is presumed to be  
21 innocent?

22 THE PROSPECTIVE JUROR: Yes.

23 THE COURT: And unless and until the government  
24 proves him guilty beyond a reasonable doubt, he must be found  
25 not guilty; you understand that?

1 THE PROSPECTIVE JUROR: I do understand that, yes.

2 THE COURT: So, can you on that ground decide the  
3 case?

4 THE PROSPECTIVE JUROR: My fear is that from what  
5 I -- I believe there is such a thing as organized crime, and  
6 from what I believe I know about that, if I felt the defendant  
7 was a part of an organized crime family, I would have trouble  
8 separating the facts, the evidence. I would have trouble  
9 being objective, because I would -- part of me would have to  
10 believe that there's truth to the allegations, because  
11 organized crime is a scary thing. It's a horrible thing. I'm  
12 certainly willing to try. That's what I was trying to  
13 explain.

14 THE COURT: How strongly do you feel that you can't  
15 control your emotions and your intellect so as to decide the  
16 case solely on what you hear here in my instructions and put  
17 out of your mind what was known from outside?

18 THE PROSPECTIVE JUROR: It's a hard question to  
19 answer.

20 I would do my best. I consider myself an honest  
21 person. I consider myself someone who takes jury service  
22 seriously. I've served before. I have not served on this  
23 kind of a case. I try to be impartial in my judgment.

24 I was just explaining that I do think that organized  
25 crime is something to be -- I don't know what the word I

1 should use here is -- believed, feared. Yes, I would try to  
2 rule on the evidence. Can I tell you that that would be --  
3 that I can't think about the defendant being part of organized  
4 crime? I would try. I can't tell you with one hundred  
5 percent certainty, but I would try.

6 THE COURT: Nobody can.

7 THE PROSPECTIVE JUROR: You understand what I mean  
8 saying.

9 THE COURT: Of course. Nobody can be 100 percent  
10 certain. But is the probability very high that you'll be able  
11 to be an impartial and fair juror in this case? The defendant  
12 is presumed to be innocent.

13 THE PROSPECTIVE JUROR: I understand your charge. I  
14 do.

15 Can I answer that question in a moment? There's  
16 something that's concerning me.

17 THE COURT: Yes.

18 THE PROSPECTIVE JUROR: On Friday, as I was coming  
19 to work, I was reading the paper and I saw an article -- I was  
20 not planning to read it -- I saw an article referring to this  
21 case, and I know that, because I saw your name in it, and I  
22 saw the headline which referred to the ruling about the acid.  
23 When I read that and realized what this case was, I know this  
24 case. I mean, I think most people do.

25 THE COURT: Okay. You are excused. Thank you.



1 THE PROSPECTIVE JUROR: Thank you.

2 (Prospective juror leaves courtroom.)

3 THE COURT: Any objection?

4 MR. BURLINGAME: No, your Honor.

5 MS. SHARKEY: No, your Honor.

6 THE LAW CLERK: Juror Number 50.

7 (Prospective juror enters courtroom.)

8 THE COURT: Good morning. How are you feeling  
9 today?

10 THE PROSPECTIVE JUROR: All right, sir.

11 THE COURT: You left your clothes out in the  
12 courtroom?

13 THE PROSPECTIVE JUROR: Yes.

14 THE COURT: Probably nobody will take them. It's  
15 probably better in the winter to hold onto your overcoat in  
16 the courthouse.

17 I would like to ask you about your answers to a few  
18 of these questions.

19 You went to graduate school. What area?

20 THE PROSPECTIVE JUROR: Computer networking.

21 THE COURT: Where was that?

22 THE PROSPECTIVE JUROR: Briarcliff College on Long  
23 Island.

24 THE COURT: What dealings did you have with any  
25 government agency apart from the routine stuff?

1 THE PROSPECTIVE JUROR: None. Just that I work for  
2 the VA hospital.

3 THE COURT: What do you do?

4 THE PROSPECTIVE JUROR: Medical support system,  
5 which is a unit clerk. I process patients.

6 THE COURT: Which one are you with, which hospital?

7 THE PROSPECTIVE JUROR: Northport, Northport VA.

8 THE COURT: Are you getting more help now?

9 THE PROSPECTIVE JUROR: And we need it. Yes.

10 THE COURT: I know you do.

11 THE PROSPECTIVE JUROR: Returning veterans that are  
12 coming back.

13 THE COURT: You do wonderful work.

14 You were arrested for criminal possession of a  
15 controlled substance in the third degree?

16 THE PROSPECTIVE JUROR: This was back before I got  
17 clean and sober. I have been clean and sober for ten years.

18 THE COURT: You were not convicted, though?

19 THE PROSPECTIVE JUROR: No. It was third degree. I  
20 got community service. It was my first offense. I never had  
21 been in trouble before.

22 THE COURT: Good. Will that affect your ability to  
23 be a fair and impartial juror here?

24 THE PROSPECTIVE JUROR: No.

25 THE COURT: Now, this is a complex case, all kinds

1 of charges about racketeering, murder and other crimes.

2 THE PROSPECTIVE JUROR: Yes.

3 THE COURT: Will you follow my instructions on how  
4 to decide it?

5 THE PROSPECTIVE JUROR: Yes, I would, sir.

6 THE COURT: Anything further?

7 MS. SHARKEY: No, your Honor.

8 MR. BURLINGAME: No, your Honor.

9 THE COURT: Seat the juror, please.

10 MR. BURLINGAME: I'm sorry, your Honor.

11 Nothing, your Honor.

12 THE COURT: Seat the juror, please.

13 They'll take you out and put you in the box.

14 (Prospective juror leaves courtroom.)

15 MR. BURLINGAME: Judge, if we could make a couple of  
16 points before we call the next juror?

17 THE COURT: Yes.

18 MR. BURLINGAME: I just wanted to remind the Court,  
19 if we could steer away from trying to keep the jurors from  
20 mentioning the specific places in which they work, I think  
21 that would be more in keeping with your order.

22 THE COURT: I understand.

23 MR. BURLINGAME: Your Honor asked if I had  
24 objections to the prior juror who was excused, because they  
25 read articles in the newspaper. If we face that problem

1 again, the Court inquires whether or not the person could  
2 disregard what they read in the newspaper and decide it on the  
3 facts --

4 THE COURT: I've already ruled on that point. I'll  
5 bear your suggestion in mind.

6 Bring in the juror.

7 THE LAW CLERK: Juror Number 88.

8 (Prospective juror enters courtroom.)

9 THE COURT: Good morning.

10 THE PROSPECTIVE JUROR: Good morning.

11 THE COURT: How are you feeling.

12 THE PROSPECTIVE JUROR: Fine. And you, sir?

13 THE COURT: Did you have any trouble with the cold  
14 this morning?

15 THE PROSPECTIVE JUROR: No, sir.

16 THE COURT: You have a nice coat.

17 THE PROSPECTIVE JUROR: Thank you.

18 THE COURT: And a nice sweater. Lovely.

19 I'm going to ask you a few questions about your  
20 responses here.

21 You are employed full-time?

22 THE PROSPECTIVE JUROR: Yes.

23 THE COURT: What kind of work do you do?

24 THE PROSPECTIVE JUROR: United States Postal  
25 Service.

1 THE COURT: You actually go out and deliver, or are  
2 you inside?

3 THE PROSPECTIVE JUROR: Yes, I do.

4 THE COURT: So, you get plenty of cold?

5 THE PROSPECTIVE JUROR: Cold, rain.

6 THE COURT: Sleet and snow; right?

7 And you consider that the Federal Government; yes?

8 THE PROSPECTIVE JUROR: Yes.

9 THE COURT: You are an ex-correctional officer?

10 THE PROSPECTIVE JUROR: Yes.

11 THE COURT: In Texas?

12 THE PROSPECTIVE JUROR: Yes.

13 THE COURT: Will that affect your decision in this  
14 case?

15 THE PROSPECTIVE JUROR: No, sir.

16 THE COURT: You understand the case will be decided  
17 solely on the evidence and my instructions, and not by  
18 anything in the media?

19 THE PROSPECTIVE JUROR: Correct.

20 THE COURT: And you are to ignore the media and try  
21 not to read anything about this case?

22 THE PROSPECTIVE JUROR: Yes.

23 THE COURT: Any further questions?

24 MR. BURLINGAME: No, your Honor.

25 MS. SHARKEY: No, your Honor.

1 THE COURT: Okay. Take Seat Four, please. Thank  
2 you.

3 THE PROSPECTIVE JUROR: Thank you.  
4 (Prospective juror leaves courtroom.)

5 THE LAW CLERK: Juror 29 stepped out.

6 We'll do 70, and go back to 29.

7 So, this is 70.

8 MS. SHARKEY: That would be for Seat Six?

9 MR. FARBER: Seat Seven.

10 So, the next number is?

11 THE LAW CLERK: 70.

12 (Prospective juror enters courtroom.)

13 THE COURT: Good morning. Sit down, please.

14 THE PROSPECTIVE JUROR: Thank you.

15 THE COURT: How are you today?

16 THE PROSPECTIVE JUROR: Good.

17 THE COURT: Where do you come from?

18 THE PROSPECTIVE JUROR: Brooklyn.

19 THE COURT: What area, generally?

20 THE PROSPECTIVE JUROR: I live in Prospect, Lefferts  
21 Gardens.

22 THE COURT: How did you get here, by bus?

23 THE PROSPECTIVE JUROR: Actually, I took a taxicab.

24 THE COURT: On a day like this, that's sensible.

25 THE PROSPECTIVE JUROR: I would like to say

1 something. On the questionnaire, there was a question about  
2 your children, and my son at one point worked for the National  
3 Action Network.

4 THE COURT: National what?

5 THE PROSPECTIVE JUROR: National Action Network, and  
6 he had been arrested for civil disobedience. I just wanted  
7 you to know that.

8 THE COURT: I see. He was not convicted of  
9 anything?

10 THE PROSPECTIVE JUROR: No.

11 THE COURT: Will that affect your decision?

12 THE PROSPECTIVE JUROR: No, but I just thought you  
13 should know.

14 THE COURT: I'm certainly glad you told us about  
15 that.

16 THE COURT: You were in a RICO case?

17 THE PROSPECTIVE JUROR: Yes, sir.

18 THE COURT: Criminal or civil?

19 THE PROSPECTIVE JUROR: Criminal.

20 THE COURT: Where, right here in this court?

21 THE PROSPECTIVE JUROR: Well, the old courthouse.

22 THE COURT: You remember the judge?

23 THE PROSPECTIVE JUROR: I don't remember his name,  
24 but I do remember it was in your courtroom, because every  
25 morning, it was Judge Weinstein's courtroom, but you were not

1 the judge. I don't remember the name of the judge, though.

2 THE COURT: Do you remember who the defendant was?

3 THE PROSPECTIVE JUROR: I don't remember their  
4 names. I really don't.

5 THE COURT: No?

6 THE PROSPECTIVE JUROR: No.

7 There were multiple defendants.

8 THE COURT: I see.

9 THE PROSPECTIVE JUROR: That was way back in 1985.

10 THE COURT: Oh. That was a long time ago.

11 THE PROSPECTIVE JUROR: Yes.

12 THE COURT: Was it Mr. Gotti?

13 THE PROSPECTIVE JUROR: No.

14 THE COURT: And, of course, you know you would put  
15 aside the evidence you heard there?

16 THE PROSPECTIVE JUROR: Oh, I don't even remember  
17 it, to tell you the truth, it was so long ago.

18 THE COURT: Yes.

19 You had a husband's relative who worked for the  
20 government?

21 THE PROSPECTIVE JUROR: Transit Authority, and he  
22 was in the military.

23 THE COURT: That wouldn't affect your verdict here,  
24 would it?

25 THE PROSPECTIVE JUROR: Not at all.



1 THE COURT: And your husband's niece, what did she  
2 do?

3 THE PROSPECTIVE JUROR: Which one? I have one on  
4 active duty right now.

5 THE COURT: I see.

6 Do you have a niece who is a judge or a law clerk or  
7 lawyer?

8 THE PROSPECTIVE JUROR: Well, she is a court  
9 officer, but she's not now, because she's in active duty.  
10 She's stationed in Hawaii.

11 THE COURT: Will that affect your decision?

12 THE PROSPECTIVE JUROR: No.

13 THE COURT: Any other questions?

14 (Pause.)

15 THE COURT: The National Action Network, do you know  
16 what kind of work they do?

17 THE PROSPECTIVE JUROR: They do civil rights work.

18 THE COURT: Of course, you were upset when your son  
19 was arrested?

20 THE PROSPECTIVE JUROR: Actually, I didn't know  
21 about it at the time.

22 THE COURT: But when he was not convicted of  
23 anything, you were gratified?

24 THE PROSPECTIVE JUROR: Well, I mean, you know,  
25 nobody wants their child to be arrested, but it was an arrest

1 that evidently he believed in. It wasn't criminal, you know.  
2 It was for a cause I believed or he believed.

3 THE COURT: One of the possible victims that will be  
4 shown to you was a court officer. Will that affect your  
5 decision?

6 THE PROSPECTIVE JUROR: Say that again?

7 THE COURT: One of the possible victims that will be  
8 shown here was a court officer.

9 Can you be impartial in such a case?

10 THE PROSPECTIVE JUROR: Absolutely, yes.

11 THE COURT: Thank you very much.

12 You're now Juror Five.

13 THE PROSPECTIVE JUROR: Okay.

14 THE COURT: Thank you.

15 THE PROSPECTIVE JUROR: Thank you.

16 (Prospective juror leaves courtroom.)

17 THE COURT: Any objection?

18 MS. SHARKEY: No, your Honor.

19 MR. BURLINGAME: No, your Honor.

20 THE COURT: Next.

21 THE LAW CLERK: We're waiting to see if 29 is back.

22 THE COURT: Next is what?

23 THE LAW CLERK: I believe it will be 29, assuming  
24 that they are ready.

25 (Pause.)

1 THE LAW CLERK: 62.

2 (Prospective juror enters courtroom.)

3 THE COURT: Good morning.

4 THE PROSPECTIVE JUROR: Good morning.

5 THE COURT: How are you feeling?

6 THE PROSPECTIVE JUROR: Good.

7 THE COURT: That's a nice warm shirt you have on.

8 THE PROSPECTIVE JUROR: It's pretty cold outside.

9 Thank you.

10 THE COURT: Now, will you be able to decide the case  
11 solely on the evidence and my instructions?

12 THE PROSPECTIVE JUROR: Yes.

13 THE COURT: You understand that you have to put out  
14 of your mind what you read in papers, what you heard outside  
15 of court about crime, organized crime, everything, put it out  
16 of your mind and decide only on what you hear here, like a  
17 scientist; right?

18 THE PROSPECTIVE JUROR: It's difficult --

19 THE COURT: Yes, I know.

20 THE PROSPECTIVE JUROR: -- because when you see  
21 something like organized crime, most probably they did that.  
22 That's what I think.

23 THE COURT: Well, that's just a charge. Everybody  
24 is presumed to be innocent. You understand that?

25 THE PROSPECTIVE JUROR: I agree, but, you know -- I

1 agree.

2 THE COURT: You disagree with that every citizen is  
3 presumed to be innocent --

4 THE PROSPECTIVE JUROR: No. I agree with everybody  
5 has to be innocent before they are proved guilty.

6 THE COURT: -- and that unless they are proved  
7 guilty beyond a reasonable doubt by evidence admitted, they  
8 should not be convicted?

9 THE PROSPECTIVE JUROR: Yes.

10 THE COURT: And even though the charges are very  
11 serious, that such people who are so charged are just being  
12 charged, that a charge doesn't mean somebody's guilty -- do  
13 you know that?

14 THE PROSPECTIVE JUROR: No. Can you repeat?

15 THE COURT: -- just because you are charged?

16 THE PROSPECTIVE JUROR: Right.

17 THE COURT: Just because you are indicted doesn't  
18 mean you're guilty. It's just a charge. The government has  
19 to prove everything it says beyond a reasonable doubt.

20 You understand that, don't you?

21 THE PROSPECTIVE JUROR: Oh, yes, that's right.

22 THE COURT: So, no matter how serious the charge,  
23 you have to follow the Court's instruction and decide what you  
24 hear on the basis of what you hear in court only; you  
25 understand that? That's what every citizen is entitled to.

1 THE PROSPECTIVE JUROR: Can you repeat?

2 THE COURT: Every citizen is entitled, when he is  
3 charged with a crime, accused of a crime, with a jury that  
4 will decide the case solely on what is shown in court and will  
5 follow exactly the Court's instructions; you understand that?

6 THE PROSPECTIVE JUROR: Yes, will follow the  
7 instructions; right.

8 THE COURT: Could you be such a juror?

9 THE PROSPECTIVE JUROR: "Could you be" what?

10 THE COURT: Could you be such a good juror?

11 THE PROSPECTIVE JUROR: I try. I try my best.

12 THE COURT: How probable is it that when you try to  
13 do this, you'll do it? That's the question.

14 THE PROSPECTIVE JUROR: I'll try my best. So, what  
15 I hear, the evidence.

16 THE COURT: You'll decide on the evidence?

17 THE PROSPECTIVE JUROR: Yes. I try my best.

18 THE COURT: What kind of work do you do?

19 THE PROSPECTIVE JUROR: I do computer work.

20 THE COURT: When you try your best to work your  
21 computer right, do you usually work it right?

22 THE PROSPECTIVE JUROR: No. Sometimes it doesn't.  
23 Sometimes I try my best.

24 THE COURT: When you try your best, you are usually  
25 pretty good at it, aren't you?

1 THE PROSPECTIVE JUROR: I try. I try my best.

2 THE COURT: When you try to do something, are you  
3 the kind of a person who succeeds in what he does, generally?

4 THE PROSPECTIVE JUROR: Right.

5 THE COURT: Would you consider yourself a successful  
6 person?

7 THE PROSPECTIVE JUROR: I'm okay. Not very  
8 successful, but I'm okay.

9 THE COURT: Do you think you can be a fair juror  
10 here? That's what I want to know.

11 THE PROSPECTIVE JUROR: I see. I try my best.

12 THE COURT: Try to give me a yes-or-no answer.

13 THE PROSPECTIVE JUROR: Okay. Yes. I try.

14 THE COURT: Any other questions?

15 MR. FARBER: Yes, your Honor.

16 THE COURT: You understand that the defendant is  
17 presumed to be innocent; correct?

18 THE PROSPECTIVE JUROR: Yes.

19 THE COURT: Okay.

20 MR. BURLINGAME: Nothing, your Honor.

21 MR. FARBER: There's another question on the bottom,  
22 your Honor.

23 THE COURT: No, I'm not going to ask that question.

24 Would you wait outside just a second, please.

25 THE PROSPECTIVE JUROR: Thank you.

1 (Prospective juror leaves courtroom.)

2 THE COURT: The question I refused to ask is, Do you  
3 have a language difficulty? He obviously didn't have a  
4 language difficulty. In my opinion.

5 MR. FARBER: I didn't necessarily want you to ask  
6 that direct question, but rather to explore his language  
7 competency. It came to my impression that this juror was  
8 hesitant, and simply saying yes as the easy way out, as  
9 opposed to answering questions. He started to fumble over his  
10 words. He was smiling a lot, which from my experience,  
11 dealing with people who have difficulty with language, they'll  
12 smile to be polite and not necessarily answer a question. I  
13 felt that the juror was beginning to do that as the Court  
14 asked more complex questions, as opposed to "Your name" and so  
15 forth.

16 THE COURT: My evaluation of his demeanor was that  
17 he was a polite juror who was confident in the evidence.

18 Any other objections?

19 MS. SHARKEY: Yes. We challenge this witness for  
20 cause. He's repeatedly said that if a person is a member of  
21 organized crime or charged with organized crime, that he must  
22 be guilty.

23 The Court repeatedly asked him, could he be a fair  
24 juror? He said, I'll try. I'll do my best.

25 It was only when the Court asked four or five times

1 and then said, Could you please give me a yes-or-no answer  
2 that the juror said, Okay, yes.

3 Now, respectfully comparing this juror with an  
4 earlier juror that was struck for cause, who flat out -- the  
5 Eagle scout, the altar boy -- told you, I could follow your  
6 instructions, the judge struck that juror for cause. This  
7 juror's responses are far more equivocal, and he should not be  
8 seated, Judge.

9 THE COURT: I disagree, and I don't think there's  
10 any inconsistency based on his demeanor. I think the Eagle  
11 scout will not be a fair juror, and this juror will be.

12 He's approved, and he's Juror Number Six.

13 Next.

14 THE LAW CLERK: 114.

15 (Prospective juror enters courtroom.)

16 THE COURT: Good morning.

17 THE PROSPECTIVE JUROR: Gosh.

18 THE COURT: How are you this morning?

19 THE PROSPECTIVE JUROR: Fine. Thank you.

20 THE COURT: Did you have any difficulty getting here  
21 this morning on this cold morning?

22 THE PROSPECTIVE JUROR: No, I didn't.

23 THE COURT: Where do you live, in what area?

24 THE PROSPECTIVE JUROR: Excuse me?

25 THE COURT: What area do you live in?



1 THE PROSPECTIVE JUROR: I live in Freeport, Long  
2 Island. It wasn't bad.

3 THE COURT: There's a big, heavy wind that comes off  
4 the ocean in Freeport?

5 THE PROSPECTIVE JUROR: Oh, yes.

6 THE COURT: You like the staff at the New York  
7 Police Academy?

8 THE PROSPECTIVE JUROR: Yes.

9 THE COURT: What do you do there? Are you a member?

10 THE PROSPECTIVE JUROR: No. I had to resign,  
11 because I had child-care problems. So. I had to resign from  
12 the Police Department. So, I'm back at Jones Beach.

13 THE COURT: You don't care for your ex-boyfriend;  
14 right?

15 THE PROSPECTIVE JUROR: No.

16 THE COURT: Now, with respect to the police academy,  
17 we may have some police and FBI and other witnesses.

18 Will you evaluate each one of them fairly, without  
19 respect to their official works?

20 THE PROSPECTIVE JUROR: Yes.

21 THE COURT: You were a potential policeperson?

22 THE PROSPECTIVE JUROR: Yes. Yes, I was.

23 THE COURT: Have you heard anything about this case?

24 THE PROSPECTIVE JUROR: No, I haven't.

25 THE COURT: Can you be a fair and impartial juror?

1 THE PROSPECTIVE JUROR: Yes, I can.

2 THE COURT: Any further questions?

3 MR. BURLINGAME: No, your Honor.

4 MS. SHARKEY: No, your Honor.

5 THE COURT: All right. You are Juror Number Seven.

6 THE PROSPECTIVE JUROR: Thank you so much. Have a  
7 good day.

8 THE COURT: Thank you for coming in.

9 (Prospective juror leaves courtroom.)

10 THE LAW CLERK: She's in, your Honor?

11 THE COURT: Yes. She's approved as Juror Number  
12 Seven.

13 Next.

14 THE LAW CLERK: Juror Number Four.

15 THE COURT: Thank you.

16 (Prospective juror enters courtroom.)

17 THE COURT: Good morning. How are you?

18 THE PROSPECTIVE JUROR: Good morning. How are you?

19 THE COURT: What area do you live in, what general  
20 area do you live in?

21 THE PROSPECTIVE JUROR: Midwood section of Brooklyn.

22 THE COURT: How do you get here, by bus?

23 THE PROSPECTIVE JUROR: Subway. F train.

24 THE COURT: That's a pretty fair ride, isn't it?  
25 It's not a difficult ride?

1 THE PROSPECTIVE JUROR: No. Twenty minutes.

2 THE COURT: You lived across the street from a  
3 Mr. Gambino?

4 THE PROSPECTIVE JUROR: Hmm.

5 THE COURT: Will that affect your decision here?

6 THE PROSPECTIVE JUROR: I don't know. I was aware  
7 of Mafia when I was younger.

8 THE COURT: Well, will that affect your decision?  
9 Did you have intercourse with Mr. Gambino?

10 THE PROSPECTIVE JUROR: No, but policemen used to  
11 sit in front of our house and watch him all day. I asked,  
12 What are you doing? They said, We are just watching somebody  
13 across the street.

14 THE COURT: You understand you have to decide this  
15 case solely on the evidence and my instructions?

16 THE PROSPECTIVE JUROR: Well, I mean, knowing that  
17 you said that this gentleman, the defendant, belongs to the  
18 Mafia --

19 THE COURT: I never said that.

20 THE PROSPECTIVE JUROR: You said in the beginning a  
21 member of the Gambino Family.

22 THE COURT: I said he was charged.

23 THE PROSPECTIVE JUROR: Yes. He was charged, but  
24 you said he was a member of the Gambino Family.

25 THE COURT: I don't recall I said that. He's

1 charged. That's just an indictment. It's a way of bringing  
2 the charge in.

3 THE PROSPECTIVE JUROR: You did mention the Gambino  
4 Family?

5 THE COURT: He's charged.

6 THE PROSPECTIVE JUROR: Oh, charged with being a  
7 member of the Gambino Family; right.

8 THE COURT: There's no proof.

9 THE PROSPECTIVE JUROR: No, no proof.

10 THE COURT: And he's presumed to be innocent. You  
11 understand that?

12 THE PROSPECTIVE JUROR: No. I understand.

13 THE COURT: And the government has to prove guilt,  
14 including that, beyond a reasonable doubt; right?

15 THE PROSPECTIVE JUROR: Right.

16 THE COURT: You understand that?

17 THE PROSPECTIVE JUROR: I understand.

18 THE COURT: Can you follow my instructions?

19 THE PROSPECTIVE JUROR: Yes, sir.

20 THE COURT: Now, you understand an indictment is  
21 just a charge, the government says somebody did something?

22 THE PROSPECTIVE JUROR: Right.

23 THE COURT: That doesn't make them guilty of  
24 anything?

25 THE PROSPECTIVE JUROR: Right. Innocent until

1 proven guilty.

2 THE COURT: Will you be able to follow this rule of  
3 law, that rule, when I tell you to follow it?

4 THE PROSPECTIVE JUROR: I don't know. His  
5 appearance gave me the impression that he was guilty, just his  
6 whole appearance. The second he got up, my gut feeling was,  
7 This guy's guilty. He had a ponytail, beard. He didn't look  
8 like an upstanding citizen. He looked a little bit on the  
9 shady side, as you would say.

10 THE COURT: Can you put those looks out of your mind  
11 and decide solely on the evidence?

12 THE PROSPECTIVE JUROR: I don't know. They already  
13 entered my mind.

14 THE COURT: Can you put it out of your mind?

15 THE PROSPECTIVE JUROR: I don't think so.

16 THE COURT: You are excused.

17 (Prospective juror leaves courtroom.)

18 THE LAW CLERK: Juror One is absent, has a personal  
19 mechanical emergency, called in.

20 This is Juror 45.

21 THE COURT: 71 is excused.

22 MR. FARBER: What happened to 29?

23 THE LAW CLERK: Number 29 stepped out. They have  
24 been calling the number. The juror isn't in the courtroom.

25 THE COURT: 45.

1 (Prospective juror enters courtroom.)

2 THE COURT: Good morning. How are you?

3 THE PROSPECTIVE JUROR: Good, how are you?

4 THE COURT: How are you feeling?

5 THE PROSPECTIVE JUROR: Fine.

6 THE COURT: Where do you come from, what area?

7 THE PROSPECTIVE JUROR: Moriches, the end of the  
8 Expressway, east.

9 THE COURT: There's a cold wind that blows in  
10 Moriches?

11 THE PROSPECTIVE JUROR: Long ride. I'm tired.

12 THE COURT: I understand. I appreciate your coming  
13 in.

14 You didn't answer 24. Were you employed by somebody  
15 else at any time?

16 THE PROSPECTIVE JUROR: Many, many years ago.  
17 Probably about twenty-five, twenty-six years ago.

18 THE COURT: Who? I mean the kind of person, not the  
19 exact firm.

20 THE PROSPECTIVE JUROR: The kind of person? I  
21 mostly did bookkeeping.

22 THE COURT: What are you doing now?

23 THE PROSPECTIVE JUROR: I run my own business with  
24 my brothers.

25 THE COURT: What business?

1 THE PROSPECTIVE JUROR: Whol esal e di stri butor,  
2 franchi se.

3 THE COURT: How l ong have you been doi ng that?

4 THE PROSPECTIVE JUROR: Al most twenty-fi ve years  
5 now.

6 THE COURT: How i s busi ness.

7 THE PROSPECTIVE JUROR: Sti nks.

8 THE COURT: Unfortunatel y, a l ot of peopl e woul d  
9 have to answer that way today. We're hopi ng for the best.

10 THE PROSPECTIVE JUROR: Yes, we are.

11 THE COURT: Any further questi ons?

12 All right. You are Juror Number Ei ght. Thank you.

13 THE PROSPECTIVE JUROR: Thank you.

14 THE LAW CLERK: Juror Number 38.

15 THE COURT: Thank you.

16 (Conti nued on next page.)

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1 (Juror number 38 is present.)

2 THE COURT: Morning. What is that, Neuman Hockey?

3 THE PROSPECTIVE JUROR: Yes.

4 THE COURT: What is that?

5 THE PROSPECTIVE JUROR: Ice hockey.

6 THE COURT: Do you play?

7 THE PROSPECTIVE JUROR: Yes.

8 THE COURT: What position?

9 THE PROSPECTIVE JUROR: Forward.

10 THE COURT: That's the tough one, isn't it, the  
11 ones that score the goals, aren't they?

12 THE PROSPECTIVE JUROR: Yes.

13 THE COURT: You play professionally?

14 THE PROSPECTIVE JUROR: College.

15 THE COURT: What college?

16 THE PROSPECTIVE JUROR: Neuman College in  
17 Pennsylvania.

18 THE COURT: How come you can serve on a jury when  
19 you go to college?

20 THE PROSPECTIVE JUROR: I just graduated.

21 THE COURT: Sorry?

22 THE PROSPECTIVE JUROR: I graduated. My home  
23 addresses is here.

24 THE COURT: I see.

25 You work in the legal field?



1 THE PROSPECTIVE JUROR: No.

2 THE COURT: Family member works in the legal field?

3 THE PROSPECTIVE JUROR: Someone did. I know  
4 someone does, I this -- yes, someone does. I mean I took --

5 THE COURT: It says have you a family member or  
6 close friend who ever worked in the legal field?

7 THE PROSPECTIVE JUROR: Close friend.

8 THE COURT: Who, not the name?

9 THE PROSPECTIVE JUROR: My roommate is now a police  
10 officer down in Philadelphia. I took all the NYPD and state  
11 trooper tests. My major was criminal justice throughout  
12 college.

13 THE COURT: Would that affect your ability to be  
14 fair and impartial in this case?

15 THE PROSPECTIVE JUROR: No.

16 THE COURT: Have you seen, heard or read anything  
17 about any of these defense attorneys, paralegals,  
18 investigators, prosecutors, defendant or law enforcement  
19 personnel in this case?

20 THE PROSPECTIVE JUROR: No.

21 THE COURT: You haven't?

22 THE PROSPECTIVE JUROR: No.

23 THE COURT: You crossed out no, put in yes?

24 THE PROSPECTIVE JUROR: What was the question?

25 Probably because --

1 THE COURT: Look at it (indicating).

2 THE PROSPECTIVE JUROR: Oh, no, no, I misunderstood  
3 the question. I'm sorry.

4 THE COURT: The answer is no?

5 THE PROSPECTIVE JUROR: Yes.

6 THE COURT: Could you be fair and impartial?

7 THE PROSPECTIVE JUROR: Yes. I mean my teacher was  
8 an ex-FBI agent who worked in the white collar crime division.  
9 My other teacher was a state trooper in New Jersey. I took  
10 classes on white collar crime and everything.

11 THE COURT: But you understand you have to decide  
12 solely on the evidence here?

13 THE PROSPECTIVE JUROR: Yes.

14 THE COURT: Whatever the official work of a person  
15 needs to be evaluated the way I tell you to evaluate  
16 credibility, can you do that?

17 THE PROSPECTIVE JUROR: Yes.

18 THE COURT: Are you awaiting word on the New York  
19 Police Department or state trooper or any other job?

20 THE PROSPECTIVE JUROR: I was accepted -- I'm  
21 going for my masters in teaching now. That's what I'm trying  
22 to do, teaching, not do law enforcement anymore.

23 THE COURT: You're now juror number nine. Thank  
24 you.

25 (Juror leaves.)

1 THE CLERK: Number 65.

2 (Juror enters).

3 THE COURT: How are you today?

4 THE PROSPECTIVE JUROR: Great.

5 THE COURT: Did you have any trouble getting in  
6 this morning?

7 THE PROSPECTIVE JUROR: No, sir.

8 THE COURT: Where do you live, general area?

9 THE PROSPECTIVE JUROR: Nassau County, Franklin  
10 Square.

11 THE COURT: Come in by railroad?

12 THE PROSPECTIVE JUROR: Yes, sir.

13 THE COURT: I want to ask you a question or two.

14 Did you or a member of your family have some  
15 experience with a crime?

16 THE PROSPECTIVE JUROR: No.

17 THE COURT: Because you said, the question was, do  
18 you feel law enforcement personnel responded --

19 THE PROSPECTIVE JUROR: I did?

20 THE COURT: Yes.

21 THE PROSPECTIVE JUROR: That's a mistake, I  
22 apologize.

23 THE COURT: That's quite all right.

24 Any further questions?

25 MS. SHARKEY: No.

1 THE COURT: You're approved. You're juror number  
2 ten. Thank you.

3 THE PROSPECTIVE JUROR: Thank you.  
4 (Juror leaves.)

5 THE CLERK: Juror number 41.  
6 (Juror enters.)

7 THE COURT: Good morning.

8 THE PROSPECTIVE JUROR: Good morning.

9 THE COURT: How are you?

10 THE PROSPECTIVE JUROR: I'm okay. I have a little  
11 bit of laryngitis, sorry.

12 THE COURT: Pardon?

13 THE PROSPECTIVE JUROR: I have laryngitis.

14 THE COURT: You don't have to talk as a juror.  
15 Isn't that nice, you just listen.

16 THE PROSPECTIVE JUROR: I couldn't.

17 THE COURT: Your father was in the sheriff's  
18 department. Which department was that?

19 THE PROSPECTIVE JUROR: Nassau County. He still  
20 is. He's a lieutenant.

21 THE COURT: Your uncle was a DA. What's his name?

22 THE PROSPECTIVE JUROR: Victor DeAngelo, DeAngelo  
23 is the last name.

24 THE COURT: Will that affect your decision here?

25 THE PROSPECTIVE JUROR: I don't think so.

1 THE COURT: Will you decide solely on what you hear  
2 in court and my instructions?

3 THE PROSPECTIVE JUROR: Yes.

4 THE COURT: Any further questions?

5 MR. BURLINGAME: No.

6 THE PROSPECTIVE JUROR: Can I say I am a special ed  
7 teacher.

8 THE COURT: What?

9 THE PROSPECTIVE JUROR: Special ed teacher, teacher  
10 of students with special needs.

11 THE COURT: Where?

12 THE PROSPECTIVE JUROR: Long Island, at a private  
13 school.

14 THE COURT: The children need you?

15 THE PROSPECTIVE JUROR: I don't think I could be  
16 out that long.

17 THE COURT: You're excused.

18 THE PROSPECTIVE JUROR: Thank you.

19 (Juror exits.)

20 THE CLERK: Juror number 49.

21 (Juror enters.)

22 THE COURT: Good morning. How are you?

23 THE PROSPECTIVE JUROR: Okay.

24 THE COURT: Good. Where do you come from, what  
25 general area, neighborhood?

1 THE PROSPECTIVE JUROR: Queens.

2 THE COURT: Where?

3 THE PROSPECTIVE JUROR: Kew Gardens area.

4 THE COURT: How do you get here, by railroad or by  
5 subway?

6 THE PROSPECTIVE JUROR: Subway.

7 THE COURT: How long does it take?

8 THE PROSPECTIVE JUROR: About an hour.

9 THE COURT: Get a seat?

10 THE PROSPECTIVE JUROR: Sometimes.

11 THE COURT: Today?

12 THE PROSPECTIVE JUROR: Yes.

13 THE COURT: Anybody ever get up and give you a  
14 seat?

15 THE PROSPECTIVE JUROR: No.

16 THE COURT: You'll look forward to being older,  
17 they'll get up.

18 THE PROSPECTIVE JUROR: That's a sad situation.  
19 I've gotten up to give people a seat. A lot of people don't  
20 do that.

21 THE COURT: You followed John Gotti's trial?

22 THE PROSPECTIVE JUROR: Yes.

23 THE COURT: Some gruesome crimes, correct?

24 THE PROSPECTIVE JUROR: Every night you turn the  
25 news on there's gruesome crimes, unfortunately.

1 THE COURT: Can you put them out of your mind in  
2 deciding this case, decide on the evidence?

3 THE PROSPECTIVE JUROR: I honestly don't know, only  
4 because I am a little familiar with some of, I guess, the  
5 alleged crimes that have gone on. So, I don't know. You do  
6 form preconceived notions. I can certainly try my best, but  
7 yes, I do have preconceived notions.

8 THE COURT: You understand this defendant is  
9 presumed to be innocent?

10 THE PROSPECTIVE JUROR: Yes, I do understand that.

11 THE COURT: And the government has to prove him  
12 guilty beyond a reasonable doubt.

13 THE PROSPECTIVE JUROR: Correct.

14 THE COURT: The media does tend to exaggerate.

15 THE PROSPECTIVE JUROR: They can.

16 THE COURT: Sometimes misstate the facts.

17 THE PROSPECTIVE JUROR: Yes, that's possible.

18 THE COURT: And rile up people's emotions?

19 THE PROSPECTIVE JUROR: True.

20 THE COURT: We expect people when they serve as  
21 jurors to put that out of their minds.

22 THE PROSPECTIVE JUROR: Yes, absolutely. I have  
23 served as a juror previously, not federal, but a criminal  
24 case.

25 THE COURT: Pretty good juror?

1 THE PROSPECTIVE JUROR: Yes, I think I was a fair  
2 juror.

3 THE COURT: You put everything else out of your  
4 mind, decided based on the case?

5 THE PROSPECTIVE JUROR: Yes, based on the evidence,  
6 but it wasn't as high a profile as this is.

7 THE COURT: The principle is the same, isn't it?

8 THE PROSPECTIVE JUROR: Yes.

9 THE COURT: You're a principled woman?

10 THE PROSPECTIVE JUROR: Yes.

11 THE COURT: Why can't you apply the same principle?

12 THE PROSPECTIVE JUROR: I think maybe because of my  
13 age, when I grew up. I don't know what I'm allowed to say in  
14 here, what words I can use, what I can't. This group, I  
15 guess, for lack of a better word -- can I say Mafia, can I  
16 say that word?

17 THE COURT: You can say anything you want.

18 THE PROSPECTIVE JUROR: I grew up in a time when  
19 the Mafia was very prevalent, you know, growing up you heard  
20 all these stories, gang wars, turf wars, killing each other.  
21 I have family members who participated -- nothing to that  
22 extent, murders or anything, but who were kind of involved in  
23 some Mafia dealings, I guess I should say.

24 THE COURT: In what way?

25 THE PROSPECTIVE JUROR: Low level.



1 THE COURT: What way?

2 THE PROSPECTIVE JUROR: Excuse me?

3 THE COURT: What way? Give me an example without  
4 naming names.

5 THE PROSPECTIVE JUROR: From what I've been told,  
6 of like runners, collecting money-type thing.

7 THE COURT: How close family were they?

8 THE PROSPECTIVE JUROR: Uncles and cousins.

9 THE COURT: How many?

10 THE PROSPECTIVE JUROR: Two uncles definitely,  
11 possibly three, three cousins, one who is actually in jail, if  
12 he's still alive. I don't know -- for life.

13 THE COURT: You think that might interfere with  
14 your ability to be impartial and decide only on what you hear  
15 in court?

16 THE PROSPECTIVE JUROR: No. No, I mean the cousin  
17 who is in jail I believe should be there. He did certain  
18 crimes and was convicted and yes, should be there.

19 THE COURT: We're interested in this particular  
20 case.

21 THE PROSPECTIVE JUROR: Right.

22 THE COURT: Can you be fair and impartial in this  
23 particular case is what I want to know.

24 THE PROSPECTIVE JUROR: In all fairness I could say  
25 yes I could try, but, you know, yes, I'm aware of some of the

1 things that have been printed in the newspapers and, you know,  
2 there are two things I do kind of remember.

3 THE COURT: What are they?

4 THE PROSPECTIVE JUROR: When they kind of happened.

5 THE COURT: What?

6 THE PROSPECTIVE JUROR: Allegedly the court officer  
7 who was murdered, Gelb, and John Gotti's neighbor who I guess  
8 accidentally hit the son. I do remember those instances. Of  
9 course, I had no idea at the time who was involved in that,  
10 so, you know, but I remember the instances and the media  
11 coverage.

12 THE COURT: Your answer, you say he's probably  
13 guilty.

14 THE PROSPECTIVE JUROR: Mmm mm.

15 THE COURT: Why do you say that?

16 THE PROSPECTIVE JUROR: Again, it's a preconceived  
17 notion based on, you know, things that I've read, kind of you  
18 don't get to the point where you are right now if you haven't  
19 done something wrong.

20 THE COURT: In number 61 you say he's probably  
21 guilty.

22 THE PROSPECTIVE JUROR: I don't remember the  
23 question.

24 THE COURT: The simple fact that a defendant is  
25 accused of being a member of organized crime make it difficult

1 for you to fairly and impartially decide whether the defendant  
2 is guilty or not guilty, you say yes, he probably is guilty.

3 THE PROSPECTIVE JUROR: Mmm mm.

4 THE COURT: You're excused. Thank you.

5 THE PROSPECTIVE JUROR: What?

6 THE COURT: You are excused.

7 THE PROSPECTIVE JUROR: Thank you.

8 (Juror exits.)

9 THE CLERK: 57.

10 (Juror enters.)

11 THE COURT: Good morning.

12 THE PROSPECTIVE JUROR: Good morning.

13 THE COURT: How are you?

14 THE PROSPECTIVE JUROR: Very good, sir.

15 THE COURT: Where are you coming from, what area?

16 THE PROSPECTIVE JUROR: Nassau County.

17 THE COURT: Where?

18 THE PROSPECTIVE JUROR: Belmore.

19 THE COURT: By railroad?

20 THE PROSPECTIVE JUROR: Yes.

21 THE COURT: What are you doing for a living now?

22 THE PROSPECTIVE JUROR: Well, actually, I'm retired  
23 out of Northrup Gruuman, fortunate enough to get another job  
24 with the Long Island Railroad.

25 THE COURT: Doing what?

1 THE PROSPECTIVE JUROR: I'm a supervisor. I take  
2 care of Flatbush Avenue station, East New York, Nostrand  
3 Avenue and half of Jamaica Station. We have people that take  
4 care of it, the supervisor makes sure it's done.

5 THE COURT: That's very nice. Would you follow my  
6 instructions in deciding the case?

7 THE PROSPECTIVE JUROR: Yes.

8 THE COURT: Would you follow my instructions not to  
9 discuss the case with anyone else?

10 THE PROSPECTIVE JUROR: Yes.

11 THE COURT: Number 61, it might be difficult for  
12 you to fairly and impartially decide whether the defendant is  
13 guilty or not because he's accused of organized crime. You  
14 say yes to that.

15 THE PROSPECTIVE JUROR: Well, my ethnic background  
16 is Italian. My grandparents, God knows what they did, but,  
17 you know, traditionally I'm Italian. For whatever reason,  
18 that's basically why I put it down.

19 THE COURT: I see.

20 THE PROSPECTIVE JUROR: Also, I don't know if I  
21 should bring this up, I read an article in the paper just not  
22 too long ago.

23 THE COURT: What did it say?

24 THE PROSPECTIVE JUROR: Well, it was about the  
25 defendant.

1 THE COURT: What did it say?

2 THE PROSPECTIVE JUROR: You want it?

3 THE COURT: Of course. I want to know what's in  
4 your head, not what's in the article.

5 THE PROSPECTIVE JUROR: What's in my head, the  
6 defendant allegedly killed somebody.

7 THE COURT: And what else?

8 THE PROSPECTIVE JUROR: It was a court officer.

9 THE COURT: What else?

10 THE PROSPECTIVE JUROR: He was involved in  
11 organized crime.

12 THE COURT: Anything else?

13 THE PROSPECTIVE JUROR: Whatever you said when you  
14 made your statements the other time.

15 THE COURT: You say you have it?

16 THE PROSPECTIVE JUROR: Yes, that's it.

17 THE COURT: You have it?

18 THE PROSPECTIVE JUROR: It basically makes me  
19 uncomfortable (handing).

20 THE COURT: You want this back?

21 THE PROSPECTIVE JUROR: Yes, I would.

22 THE COURT: Headline is "Officers will pack mob  
23 trial"?

24 THE PROSPECTIVE JUROR: What brought my attention  
25 to it was the picture, sir.

1 THE COURT: Of Gelb and the defendant?

2 THE PROSPECTIVE JUROR: No, the other side.

3 THE COURT: Oh, the other side? No.

4 THE PROSPECTIVE JUROR: I'm sorry, that's the side  
5 (indicating).

6 THE COURT: This is the New York Daily News, page  
7 23, exclusive article by John Marzulli, Daily News staff  
8 writer.

9 You believe everything you read in the papers?

10 THE PROSPECTIVE JUROR: No, not at all, sir.

11 THE COURT: You understand the defendant is  
12 presumed to be innocent?

13 THE PROSPECTIVE JUROR: Absolutely.

14 THE COURT: The government has to prove everything  
15 beyond a reasonable doubt?

16 THE PROSPECTIVE JUROR: That's right.

17 THE COURT: Otherwise he's to be found not guilty?

18 THE PROSPECTIVE JUROR: (No response).

19 THE COURT: Please speak.

20 THE PROSPECTIVE JUROR: Yes.

21 THE COURT: Would you follow my instructions?

22 THE PROSPECTIVE JUROR: Yes.

23 THE COURT: Do you think you could be fair and  
24 impartial?

25 THE PROSPECTIVE JUROR: I think so, yes.

1 THE COURT: Will you put out of your mind what you  
2 read in this newspaper?

3 THE PROSPECTIVE JUROR: What happens if I pick up  
4 another paper, read more about this?

5 THE COURT: Don't read the newspapers is what I'm  
6 going to tell you. You think you can do that?

7 THE PROSPECTIVE JUROR: To be perfectly honest with  
8 you, I don't think so, no.

9 THE COURT: You'll read the newspapers when I tell  
10 you not to read the newspapers?

11 THE PROSPECTIVE JUROR: No, I mean if you tell me  
12 not to, I won't read them obviously.

13 THE COURT: Okay, that's what I'm going to tell  
14 you. You want this back? I don't think you ought to keep it  
15 at the moment.

16 THE PROSPECTIVE JUROR: Okay.

17 THE COURT: We'll get you another copy if you need  
18 it. Let's mark it.

19 THE PROSPECTIVE JUROR: I don't need it.

20 THE COURT: Wait out in the hall.

21 THE PROSPECTIVE JUROR: Thank you.

22 (Juror exits.)

23 THE COURT: Has everyone seen this (handing).  
24 Let's mark it as a separate court exhibit for today.

25 THE CLERK: Court Exhibit number 4.

1 (So marked.)

2 THE COURT: That's juror number 57. I'm going to  
3 break early today.

4 MS. SHARKEY: Early?

5 THE COURT: Yes, so we'll be selecting jurors  
6 tomorrow as well.

7 MS. SHARKEY: What time are you breaking?

8 THE COURT: I'm not sure. I'll let you know  
9 shortly, probably either 1 o'clock or two clock.

10 What do you want to do about the juror?

11 MS. SHARKEY: He said he could be fair.

12 THE COURT: Pardon?

13 MS. SHARKEY: He said he could be fair.

14 MR. BURLINGAME: We have follow-up questions. He  
15 said he has a problem, expressed hesitancy about being fair  
16 and impartial because he was Italian. We would like to ask  
17 him why that made him uncomfortable. Mr. Norris thought he  
18 looked familiar, wanted to see if he recognized anybody in the  
19 room.

20 THE COURT: Bring him back in, please.

21 (Juror enters.)

22 THE COURT: Do you recognize anyone in this room?  
23 Look around.

24 THE PROSPECTIVE JUROR: This gentleman over here we  
25 saw in the courtroom when I was there with you.



1 THE COURT: The defendant?

2 THE PROSPECTIVE JUROR: Yes. You say that lady in  
3 the hallway with that gentleman (indicating). I think I saw  
4 him on the train this morning. Am I right or wrong? You were  
5 in the courtroom last Monday (indicating).

6 THE COURT: All in connection with the case?

7 THE PROSPECTIVE JUROR: Yes.

8 THE COURT: Do you think that your Italian  
9 background interferes with your being fair and impartial?

10 THE PROSPECTIVE JUROR: No, I just brought it up.

11 THE COURT: I'm glad you did. We have to bring  
12 everything up.

13 Why are you uncomfortable, or if you are?

14 THE PROSPECTIVE JUROR: I just am.

15 You're talking to me, right?

16 THE COURT: Yes.

17 THE PROSPECTIVE JUROR: I don't know, I'm  
18 uncomfortable. I don't know why.

19 THE COURT: You look like a pretty steady guy.  
20 You're a supervisor. What makes you uncomfortable, is it this  
21 situation?

22 THE PROSPECTIVE JUROR: Maybe the case. Maybe the  
23 case makes me uncomfortable.

24 THE COURT: What about it? The main thing is  
25 everybody is uncomfortable with jury service because it

1 requires a lot of you, right?

2 THE PROSPECTIVE JUROR: Yes, I guess that's true.

3 THE COURT: Is there anything beyond that?

4 THE PROSPECTIVE JUROR: I just feel uncomfortable,  
5 Judge. That's it. I really do.

6 THE COURT: Do you think you could be a fair juror?

7 THE PROSPECTIVE JUROR: I will do my 100 percent  
8 best to be an impartial juror.

9 THE COURT: How close to 100 percent would you get?

10 THE PROSPECTIVE JUROR: 100 percent, unless, you  
11 know, unless -- 100 percent.

12 THE COURT: 100 percent. Fair and impartial  
13 100 percent?

14 THE PROSPECTIVE JUROR: Right.

15 THE COURT: Wait outside, please.

16 THE PROSPECTIVE JUROR: Thank you.

17 (Juror exits.)

18 THE COURT: Any objection?

19 MR. BURLINGAME: For cause. He seemed visibly  
20 afraid when he discussed his feelings, appeared so afraid he  
21 couldn't speak openly.

22 MS. SHARKEY: I disagree with the characterization  
23 of afraid. The guy is an LIRR supervisor, surrounded in a  
24 room full of lawyers. You asked him specifically if he could  
25 be fair. He said yes, 100 percent.

1 THE COURT: Approved. I don't think he's  
2 uncomfortable any more than he should be.

3 MR. NORRIS: A follow-up question. You asked him  
4 about what made him uncomfortable about the case, at one point  
5 he did say the type of case, the charges, then turned in the  
6 other direction. My sense watching his demeanor, if probed by  
7 your Honor, what he was trying to say was not the nature of  
8 jury service but the nature of these charges, whether it's  
9 Mafia or the fact of murders. I think that's what he was  
10 clearly getting at. I wonder if your Honor might inquire to  
11 make him answer that question. If he doesn't go there --

12 THE COURT: I have enough information based on his  
13 demeanor. He's approved.

14 THE CLERK: Juror number 11.

15 THE COURT: 57 becomes 11.

16 (Juror enters courtroom.)

17 THE COURT: Good morning.

18 You're carrying a cane like many of us of our  
19 generation.

20 THE PROSPECTIVE JUROR: It happens.

21 THE COURT: Right. You think you can sit? We'll  
22 take a break every hour or hour and a half. Do you think you  
23 could sit?

24 THE PROSPECTIVE JUROR: Yes, that's not a problem.

25 THE COURT: You have an appointment with your

1 doctor. Can you move those appointments to Friday?

2 THE PROSPECTIVE JUROR: I will try. It's the  
3 veterans association. They don't move it quickly.

4 THE COURT: Veterans Administration?

5 THE PROSPECTIVE JUROR: Yes, usually when you move,  
6 it, it takes several weeks.

7 THE COURT: Ms. Lowe, you'll call.

8 Which one?

9 THE PROSPECTIVE JUROR: On 23rd street.

10 THE COURT: If you're chosen, you'll get in touch  
11 with Ms. Lowe. She will work and my secretary will work with  
12 the Veterans Administration, see what they can do. If  
13 necessary, I'll issue an order.

14 THE PROSPECTIVE JUROR: Very good.

15 THE COURT: Can you be fair and impartial?

16 THE PROSPECTIVE JUROR: I will try to be.

17 THE COURT: Any further questions?

18 MR. FARBER: No, Judge.

19 THE COURT: You're juror number 12. Thank you.

20 You can go out.

21 (Juror exits.)

22 MS. SHARKEY: Judge, as we go through the next  
23 round, we have 12 jurors?

24 THE COURT: No, we don't have 12 jurors. We have  
25 12 potential jurors.

1 MS. SHARKEY: Are thesi s alternates?

2 THE COURT: We're choosi ng 40 jurors. Then they'll  
3 be in the jury box and I've explained it to you, but I'll  
4 explain again. When we get 40 jurors selected, I need 18  
5 jurors, 12 and six. I have 16 challenges plus six challenges  
6 for alternates. I have to have all of those. We probably  
7 need about 45 jurors approved.

8 Next?

9 THE CLERK: Juror number 39.

10 (Juror enters.)

11 THE COURT: Good morni ng.

12 THE PROSPECTIVE JUROR: Good morni ng.

13 THE COURT: How are you?

14 THE PROSPECTIVE JUROR: Good, thanks.

15 THE COURT: What are you readi ng?

16 THE PROSPECTIVE JUROR: A book that I stole from  
17 your library the last time I was here.

18 THE COURT: From here?

19 THE PROSPECTIVE JUROR: Yes, Gl ori a Vanderbi lt.

20 THE COURT: It's a marvel ous book.

21 THE PROSPECTIVE JUROR: Really?

22 THE COURT: You don't like it?

23 THE PROSPECTIVE JUROR: No.

24 THE COURT: She was somewhat of --

25 THE PROSPECTIVE JUROR: The picture was taken by

1 Anderson Cooper.

2 THE COURT: She was somewhat -- what shall I say,  
3 egocentric, selfish?

4 THE PROSPECTIVE JUROR: Not very literary.

5 THE COURT: She was rich. Well, you can't have  
6 everything.

7 THE PROSPECTIVE JUROR: No, and a good looking son.

8 THE COURT: Will you do your best to be fair,  
9 impartiality in this case?

10 THE PROSPECTIVE JUROR: Well, I guess I could try,  
11 yes.

12 THE COURT: You will do your best, give it your  
13 best shot, won't you?

14 THE PROSPECTIVE JUROR: Yes.

15 THE COURT: You believe there are entities such as  
16 organized crime families?

17 THE PROSPECTIVE JUROR: According to the movie  
18 there is.

19 THE COURT: Will you decide the case on what you  
20 hear here, the evidence and my instructions? That's the  
21 question. Can you put out of your mind what the movies and  
22 other people say?

23 THE PROSPECTIVE JUROR: Yes, I'll try, yes.

24 THE COURT: You write yourself?

25 THE PROSPECTIVE JUROR: Yes.

1 THE COURT: What kind of work?

2 THE PROSPECTIVE JUROR: I write screen plays.

3 THE COURT: Can you mention a few?

4 THE PROSPECTIVE JUROR: I did not mention them  
5 because I never sold them.

6 THE COURT: I see. You write them, but don't sell  
7 them?

8 THE PROSPECTIVE JUROR: I have an agent. One came  
9 very close to being sold.

10 THE COURT: We haven't seen those yet?

11 THE PROSPECTIVE JUROR: No.

12 THE COURT: You have any strong feelings that would  
13 prevent you from being a fair and impartial juror?

14 THE PROSPECTIVE JUROR: Well, my only thoughts are  
15 is that I do have difficulty with death and violence, I guess  
16 more than most. I do have problems with death.

17 THE COURT: You understand the defendant has been  
18 accused by the government, but he is presumed to be innocent,  
19 as innocent as you. Until and unless the government proves  
20 him guilty beyond a reasonable doubt, he is not guilty; do you  
21 understand that?

22 THE PROSPECTIVE JUROR: Sure, mmm mm.

23 THE COURT: Will you apply those principles?

24 THE PROSPECTIVE JUROR: Sure, yes.

25 THE COURT: You say you would have difficulty

1 believing a criminal who testifies, correct?

2 THE PROSPECTIVE JUROR: Yes. My ex-husband is a  
3 lawyer. I remember him always telling me you get a trial by  
4 jury most of the times is because you're most likely guilty.  
5 So if you get a trial by jury, you have a better chance to get  
6 off. Is that true? I just remember him telling me that.

7 THE COURT: I can't answer that question. I always  
8 find that jurors do what they're supposed to do.

9 Can you put aside what your former husband or late  
10 husband is it?

11 THE PROSPECTIVE JUROR: Former husband.

12 THE COURT: Former husband told you and decide on  
13 the basis of my instructions --

14 THE PROSPECTIVE JUROR: I can put it aside, yes.

15 THE COURT: Can you be a fair and impartial juror?

16 THE PROSPECTIVE JUROR: I would try my best.

17 THE COURT: Do you usually accomplish what you try?

18 THE PROSPECTIVE JUROR: Well, less often.

19 THE COURT: Because he's accused of a violent crime  
20 or death, would it be less likely that you can be fair?

21 THE PROSPECTIVE JUROR: Well, I have problems with  
22 death. My mother and my best friend passed away just  
23 recently. It was a very difficult thing for me to deal with,  
24 more than the average person. I have problems with death and  
25 violence.



1 THE COURT: I don't understand what you mean you  
2 have problems with death and violence in connection with the  
3 case. The case is to be decided on evidence.

4 THE PROSPECTIVE JUROR: Do I have to get pictures  
5 of dead people?

6 THE COURT: Let me finish.

7 THE PROSPECTIVE JUROR: Sorry.

8 THE COURT: We have problems with relatives and  
9 friends dying. Is that so affected you that emotionally that  
10 you couldn't hear a case in which death was described?

11 THE PROSPECTIVE JUROR: If it would be something  
12 very graphic, like graphic description or photographs, things  
13 like that.

14 THE COURT: There will be photographs of dead  
15 people.

16 THE PROSPECTIVE JUROR: I don't watch violent  
17 movies. I don't look at -- if there's anything that's at all  
18 bloody or violent, I close my eyes.

19 THE COURT: You couldn't look at such pictures?

20 THE PROSPECTIVE JUROR: I would have difficulty.

21 THE COURT: Could you look at such pictures?

22 THE PROSPECTIVE JUROR: If I did, my reaction would  
23 be much more severe than most.

24 THE COURT: You're excused. Thank you.

25 THE PROSPECTIVE JUROR: Thanks.

1 (Juror exits.)

2 THE COURT: We're going to take a half hour for  
3 lunch.

4 MR. FARBER: Leave everything here?

5 THE COURT: Leave everything here. You can remove  
6 the defendant, give him a quick sandwich, get him back here  
7 five minutes after 12:00.

8 Tell the jury, please.

9 THE CLERK: Yes, your Honor.

10 (Luncheon recess.)

11 (Continued on next page.)

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1                   A F T E R N O O N       S E S S I O N

2                   THE COURT:   We have a note, juror number 66,  
3                   questionnaire number 98 said she would be unable to come to  
4                   court tomorrow because she had doctor appointments for herself  
5                   and her husband. She has to take her husband to the doctor  
6                   several times a week. We might just as well excuse her.

7                   MS. SHARKEY:   Juror number 98 or 66?

8                   THE COURT:   Questionnaire number 98.

9                   MR. BURLINGAME:   Juror number 98.

10                  THE CLERK:   Questionnaire 98.

11                  MR. BURLINGAME:   I don't know what that means.

12                  THE COURT:   Juror number 66 was the number assigned  
13                  this morning.

14                  THE CLERK:   Juror number 98, number 66 in the list  
15                  we're calling them in.

16                  THE COURT:   She's excused.

17                  MR. BURLINGAME:   Juror number 98 is gone?

18                  THE COURT:   Correct.

19                  MR. BURLINGAME:   Thank you.

20                  (Pause. )

21                  THE COURT:   We can't do anything until we get the  
22                  defendant. We have this scheduled for 9:00 o'clock tomorrow.  
23                  They're not getting the defendant over. 9:30 is the absolute  
24                  earliest. We'll make it 9:30 for tomorrow, see what we can  
25                  do. We'll probably need the whole day. We're breaking at

1 1:30 today.

2 THE CLERK: Once the defendant is here, juror number  
3 68 will be next.

4 MR. FARBER: In general we'll be starting at 9:30?

5 THE COURT: Unless we can do something about it,  
6 getting the defendant over. I'm afraid that will do unless  
7 the defendant wants to waive his earlier appearance.

8 MS. SHARKEY: I don't think he will waive his  
9 appearance.

10 MR. FARBER: He's indicated he would like to be  
11 present for everything.

12 (Pause.)

13 MS. SHARKEY: While we're waiting, the court has  
14 asked for applications, I'll waive Mr. Carneglia's appearance  
15 for this purpose.

16 The defense had subpoenaed the parole records of  
17 Mr. Carneglia and Mr. Goldman was his parole officer. I spoke  
18 to Mr. Goldman. He informed me he came and met with the court  
19 concerning the records.

20 THE COURT: Was it in open court?

21 MS. SHARKEY: No, he specifically told me he met  
22 with you.

23 THE COURT: I don't recall that. Does my clerk  
24 recall that?

25 MS. SHARKEY: Post-release supervision, we had

1 subpoenaed the record. Mr. Goldman wasn't sure if the  
2 government had the record or he left it with the court. He  
3 was very clear that he had brought it with him.

4 (Defendant enters.)

5 MR. NORRIS: I spoke with Ms. Sharkey several weeks  
6 ago, I thought we had reached a resolution. You said you  
7 would raise it, address it in court the next time we came, and  
8 we've come to a resolution, having talked to Mr. Goldman.

9 MS. SHARKEY: We would like the documents.

10 MR. NORRIS: I'll endeavor to get them. I don't  
11 know that we have them now, we'll call Mr. Goldman, work  
12 together.

13 MS. SHARKEY: He told me it was in the government's  
14 or the court's possession.

15 THE COURT: I have nothing in my possession. I  
16 don't normally handle any of that.

17 THE CLERK: If any subpoenaed records come in, it's  
18 given to the clerk's office, the subpoenaed records.

19 MS. SHARKEY: I'm repeating the question I had with  
20 him.

21 I want to bring this up. We had previously filed a  
22 motion to dismiss counts in the indictment pursuant to  
23 speedy trial. The Court's ruling was that's -- not speedy  
24 trial, statute of limitations. The Court's ruling was that's  
25 a jury issue, we'll have to see what the jury says. I want to

1 note in my review of the documents over the weekend, the date  
2 we put was November, '03. That was a typo. It should say in  
3 or around November '02, that's all. That's probably apparent.  
4 '03 makes no sense.

5 THE COURT: Motion is denied. Bring in juror  
6 number 68, please.

7 (Juror enters.)

8 THE COURT: Good afternoon. How are you?

9 THE PROSPECTIVE JUROR: Good.

10 THE COURT: Where do you live?

11 THE PROSPECTIVE JUROR: Smithtown, New York.

12 THE COURT: You came in by railroad?

13 THE PROSPECTIVE JUROR: No, I drove.

14 THE COURT: Where did you put your car?

15 THE PROSPECTIVE JUROR: Right across the street.

16 THE COURT: I want to ask you a few questions about  
17 your answers. Your uncle was charged with embezzlement?

18 THE PROSPECTIVE JUROR: Yes.

19 THE COURT: You thought he was fairly treated?

20 THE PROSPECTIVE JUROR: Yes.

21 THE COURT: Would any feelings about your uncle's  
22 conviction affect your ability to be fair and impartial in  
23 this case?

24 THE PROSPECTIVE JUROR: No, I wasn't fully aware of  
25 all the details.

1 THE COURT: Question number 60, would you be able  
2 to consider evidence about racketeering, murder, murder  
3 conspiracy, other crimes fairly and impartially and in  
4 accordance with the instructions of the court? You said no.  
5 Why?

6 THE PROSPECTIVE JUROR: I don't really remember I  
7 said that.

8 THE COURT: Could you be fair?

9 THE PROSPECTIVE JUROR: Yes, that was probably an  
10 overload of questions.

11 THE COURT: Probably.  
12 You would follow my instructions?

13 THE PROSPECTIVE JUROR: Yes.

14 THE COURT: Any further questions?

15 MR. FARBER: No.

16 MR. BURLINGAME: Yes.

17 THE COURT: Take juror number 13's seat, approved.  
18 (Juror exits.)

19 THE CLERK: Next juror is number 101.  
20 (Juror enters.)

21 THE COURT: Hello.

22 THE PROSPECTIVE JUROR: How are you doing?

23 THE COURT: Sit down, won't you? How are you  
24 feeling today?

25 THE PROSPECTIVE JUROR: Good. Yourself?

1 THE COURT: I'm feeling great.

2 THE PROSPECTIVE JUROR: Okay.

3 THE COURT: Nice to be out of the cold.

4 I want to ask you about a few of the answers, okay?

5 THE PROSPECTIVE JUROR: Wouldn't you mind saying

6 that again?

7 THE COURT: I wanted to ask you about a few of your  
8 answers.

9 THE PROSPECTIVE JUROR: Okay.

10 THE COURT: Have you read anything about Gambino  
11 family, La Cosa Nostra or the Mafia?

12 THE PROSPECTIVE JUROR: No.

13 THE COURT: You understand that any person who is  
14 brought before the court is presumed to be innocent; that is,  
15 it's assumed he's innocent until he's proven guilty beyond a  
16 reasonable doubt. You understand that?

17 THE PROSPECTIVE JUROR: Yeah.

18 THE COURT: Can you accept that as the proper law  
19 under our Constitution?

20 THE PROSPECTIVE JUROR: Yes, I can.

21 THE COURT: The government has the burden of  
22 proving him guilty beyond a reasonable doubt. Otherwise, he  
23 must be found innocent, you agree with that?

24 THE PROSPECTIVE JUROR: Yeah.

25 THE COURT: You're going to be told not to consider



1 anything you read or hear about the case. Will you follow my  
2 instructions?

3 THE PROSPECTIVE JUROR: Yes, I will.

4 THE COURT: Any other questions?

5 MS. SHARKEY: No.

6 MR. BURLINGAME: No, Judge.

7 THE COURT: You're approved, juror number 14.

8 MR. BURLINGAME: I did have one question  
9 (handing).

10 THE COURT: You believe there are such things as  
11 organized crime families, La Cosa Nostra or Mafia?

12 THE PROSPECTIVE JUROR: Yes, I do.

13 THE COURT: Would you put that out of your mind and  
14 be fair and impartial in this case?

15 THE PROSPECTIVE JUROR: Yes.

16 THE COURT: You're approved. Thank you. You'll be  
17 seated by Ms. Lowe.

18 THE CLERK: Next juror is number 20.

19 (Juror enters).

20 THE COURT: Hello.

21 THE PROSPECTIVE JUROR: Hello.

22 THE COURT: Where do you live?

23 THE PROSPECTIVE JUROR: Bay Ridge.

24 THE COURT: How do you get here, by bus or train?

25 THE PROSPECTIVE JUROR: Train.

1 THE COURT: How long does it take?

2 THE PROSPECTIVE JUROR: Thirty-five minutes.

3 THE COURT: What line is that?

4 THE PROSPECTIVE JUROR: I take the R to 59, take  
5 the N to Atlantic Avenue, then I take the two.

6 THE COURT: You have to change twice?

7 THE PROSPECTIVE JUROR: Yeah.

8 THE COURT: You've recently observed, followed the  
9 case of the actor who allegedly killed the off-duty cop in the  
10 Bronx?

11 THE PROSPECTIVE JUROR: Yeah.

12 THE COURT: You say because he didn't have the gun,  
13 I agree he should not be convicted of murder. That's your  
14 view?

15 THE PROSPECTIVE JUROR: I agree with that.

16 THE COURT: Would you follow my instructions on  
17 what the law is in this case?

18 THE PROSPECTIVE JUROR: Yes, sir.

19 THE COURT: Any questions?

20 MR. FARBER: No.

21 THE COURT: You're approved, number 15.

22 (Juror exits.)

23 THE CLERK: Number 61.

24 (Juror enters.)

25 THE COURT: How are you today?

1 THE PROSPECTIVE JUROR: I'm fine, how are you?

2 THE COURT: Good.

3 Did you get a chance to have anything to eat during  
4 the short break?

5 THE PROSPECTIVE JUROR: Yes.

6 THE COURT: I'm going to ask you a bit about this  
7 questionnaire of yours. What kind of work do you do?

8 THE PROSPECTIVE JUROR: Porter job.

9 THE COURT: Porter?

10 THE PROSPECTIVE JUROR: Yes.

11 THE COURT: Where?

12 THE PROSPECTIVE JUROR: Two Penn Plaza.

13 THE COURT: Railroad?

14 THE PROSPECTIVE JUROR: No, commercial building.

15 THE COURT: You followed the Simpson trial, O.J.  
16 Simpson trial?

17 THE PROSPECTIVE JUROR: It was only in case I was a  
18 little interested, yes.

19 THE COURT: Which one, the one in Florida?

20 THE PROSPECTIVE JUROR: No, this first one in  
21 California.

22 THE COURT: You thought the jury was wrong?

23 THE PROSPECTIVE JUROR: Of course.

24 THE COURT: In this case will you decide according  
25 to the evidence and the law as I instruct you?

1 THE PROSPECTIVE JUROR: Not really. That was just  
2 my feeling.

3 THE COURT: No, not about that case, but in the  
4 present case, will you follow my instructions?

5 THE PROSPECTIVE JUROR: Absolutely.

6 THE COURT: And decide only on the evidence?

7 THE PROSPECTIVE JUROR: Of course.

8 THE COURT: Any further questions?

9 MR. BURLINGAME: One, Judge (handing.)

10 THE COURT: You have a question?

11 MR. BURLINGAME: Yes, Judge.

12 THE COURT: Dennis Quirk. You know Dennis Quirk?

13 THE PROSPECTIVE JUROR: No.

14 THE COURT: Did you say you knew a Dennis Quirk?  
15 Is that one of those checked?

16 MR. NORRIS: In attachment "A."

17 MR. FARBER: No, not for this juror.

18 MR. BURLINGAME: I'm sorry.

19 THE COURT: You're approved.

20 MR. BURLINGAME: I'm sorry. I got the numbers  
21 confused.

22 (Juror exits.)

23 THE COURT: He's juror number 16.

24 THE CLERK: Juror number 34.

25 (Juror enters.)

1 THE COURT: Hello. How are you?

2 THE PROSPECTIVE JUROR: Hello, sir.

3 THE COURT: How are you feeling?

4 THE PROSPECTIVE JUROR: Great, thank you.

5 THE COURT: Where do you live?

6 THE PROSPECTIVE JUROR: In Belle Rose, Queens.

7 THE COURT: You get here how?

8 THE PROSPECTIVE JUROR: Today I drove.

9 THE COURT: Where did you put your car?

10 THE PROSPECTIVE JUROR: In the parking lot.

11 THE COURT: I'll ask you a few questions, if you  
12 don't mind, about this questionnaire.

13 You're a project manager. What kind of projects?

14 THE PROSPECTIVE JUROR: The organization provides  
15 services to minority and women-owned businesses. I  
16 coordinate, consult, whatnot.

17 THE COURT: Who pays for it?

18 THE PROSPECTIVE JUROR: Usually several  
19 organizations that the Port Authority of New York and  
20 New Jersey, New York State Department of Transportation, a few  
21 other public agencies.

22 THE COURT: In answer to the question would you be  
23 able to consider evidence about racketeering, murder, murder  
24 conspiracy and other crimes fairly and impartially and in  
25 accordance with these instructions of the court, you answered

1 no. Why?

2 THE PROSPECTIVE JUROR: I think that was a mistake.

3 THE COURT: You would follow my instructions?

4 THE PROSPECTIVE JUROR: I would, absolutely.

5 THE COURT: The rule is that an indictment is just  
6 a charge. It's not any evidence. It may not be considered by  
7 you as any evidence. Would you follow that instruction?

8 THE PROSPECTIVE JUROR: Yes.

9 THE COURT: I have a question about 82-C. I don't  
10 see it.

11 MR. FARBER: That's not ours, sir.

12 MR. NORRIS: Number 82, I believe.

13 THE COURT: If any evidence is introduced, you can  
14 assume it's legally obtained. Will you follow my  
15 instructions?

16 THE PROSPECTIVE JUROR: Yes.

17 THE COURT: What kind of activity have you engaged  
18 in in connection with community work?

19 THE PROSPECTIVE JUROR: I chair Community Board 13  
20 in Queens and vice president, secretary-treasurer, a bunch of  
21 other organizations.

22 THE COURT: Some of these incidents that will be  
23 described in the case may have occurred on Port Authority  
24 property. Will that affect your ability to be fair?

25 THE PROSPECTIVE JUROR: No.

1 THE COURT: Any further questions?

2 MR. BURLINGAME: No.

3 THE COURT: You're excused and you will be juror  
4 number 17.

5 (Juror exits.)

6 MR. BURLINGAME: Could we take a second before we  
7 call the next juror?

8 THE COURT: Yes.

9 MR. BURLINGAME: We would move to strike for cause  
10 based on he's now effectively identified by who he is, saying  
11 he was the chairman of the board of Community Board 13. It's  
12 the same as telling his name.

13 THE COURT: It's denied. These questionnaires will  
14 be sealed and the questions will be sealed.

15 THE CLERK: Juror number 107.

16 (Juror enters.)

17 THE COURT: Hello. How are you?

18 THE PROSPECTIVE JUROR: I'm fine, thanks.

19 THE COURT: Where do you live?

20 THE PROSPECTIVE JUROR: Astoria, Queens.

21 THE COURT: How do you get here?

22 THE PROSPECTIVE JUROR: By train.

23 THE COURT: How long does it take from Astoria?

24 THE PROSPECTIVE JUROR: Probably like 45 minutes.

25 THE COURT: 45?

1 THE PROSPECTIVE JUROR: Yes.

2 THE COURT: Is that a crowded train the hour you  
3 came in, very crowded?

4 THE PROSPECTIVE JUROR: It was crowded.

5 THE COURT: They really need more trains.

6 You know any prosecutors?

7 THE PROSPECTIVE JUROR: No.

8 THE COURT: Have you ever served on a jury before?

9 THE PROSPECTIVE JUROR: About a couple of months  
10 ago.

11 THE COURT: A state case?

12 THE PROSPECTIVE JUROR: November -- it was a state  
13 case.

14 THE COURT: Criminal case?

15 THE PROSPECTIVE JUROR: Yeah.

16 THE COURT: Drugs?

17 THE PROSPECTIVE JUROR: Yeah.

18 THE COURT: Will anything you heard there affect you  
19 Here?

20 THE PROSPECTIVE JUROR: No.

21 THE COURT: You'll follow my instructions, right?

22 THE PROSPECTIVE JUROR: Yes.

23 THE COURT: Any further questions?

24 MR. BURLINGAME: Yes (handing).

25 THE COURT: You were in military service?



1 THE PROSPECTIVE JUROR: No.

2 THE COURT: You're approved. Ms. Lowe will seat  
3 you. You'll be juror number 18.

4 THE PROSPECTIVE JUROR: Thanks.

5 (Juror exits.)

6 THE CLERK: Juror number eight.

7 MR. FARBER: No objection to this juror before the  
8 juror comes in. Out of curiosity, if someone did jury duty a  
9 few months ago in state court, that doesn't have any bearing?

10 THE COURT: It has a bearing if they object to  
11 being seated and I find it burdensome, but he doesn't object.

12 MR. FARBER: Just asking.

13 (Juror enters.)

14 THE COURT: How are you?

15 THE PROSPECTIVE JUROR: Very good. Yourself?

16 THE COURT: Yes. Are you cold?

17 THE PROSPECTIVE JUROR: No, I was outside.

18 THE COURT: Isn't it too thin for you in this  
19 weather?

20 THE PROSPECTIVE JUROR: I go on the train, 1, 2, 3,  
21 I'm home.

22 THE COURT: Where are you from?

23 THE PROSPECTIVE JUROR: Coney Island.

24 THE COURT: What line?

25 THE PROSPECTIVE JUROR: The R and the N.

1 THE COURT: Is that new terminal working out well?  
2 They just spent a lot of money on it.

3 THE PROSPECTIVE JUROR: It's working very well.

4 THE COURT: You had relatives and friends involved  
5 with the Mafia?

6 THE PROSPECTIVE JUROR: They're dead, most of them,  
7 two I know. One is indicted, the other one is in jail.

8 THE COURT: What was their relationship?

9 THE PROSPECTIVE JUROR: My godfather and my uncle.

10 THE COURT: Were they officials in the  
11 organization?

12 THE PROSPECTIVE JUROR: My godfather.

13 THE COURT: Was?

14 THE PROSPECTIVE JUROR: A capo.

15 THE COURT: Capo?

16 THE PROSPECTIVE JUROR: Yes.

17 THE COURT: What organization?

18 THE PROSPECTIVE JUROR: I'm not sure what family.  
19 I didn't really associate with him that often. I met him  
20 twice in my whole life.

21 THE COURT: Can you be fair and impartial in this  
22 case?

23 THE PROSPECTIVE JUROR: Sure.

24 THE COURT: Any questions?

25 MS. SHARKEY: No.

1 THE COURT: You're approved. You'll become juror  
2 number 19.

3 THE PROSPECTIVE JUROR: Thank you.  
4 (Juror exits.)

5 THE CLERK: Juror number 100.  
6 (Juror enters.)

7 THE COURT: Hello. How are you?

8 THE PROSPECTIVE JUROR: Hello.

9 THE COURT: How are you feeling?

10 THE PROSPECTIVE JUROR: Nervous.

11 THE COURT: Well, of course. It would be natural  
12 to be nervous. You're all bundled up. Is it cold out?

13 THE PROSPECTIVE JUROR: What?

14 THE COURT: You're bundled up. Is it cold out?

15 THE PROSPECTIVE JUROR: I just feel nervous anyway.

16 THE COURT: Your husband's niece is a certified  
17 public accountant?

18 THE PROSPECTIVE JUROR: Yes.

19 THE COURT: What kind of work did you do for the  
20 bank?

21 THE PROSPECTIVE JUROR: Me?

22 THE COURT: Yes.

23 THE PROSPECTIVE JUROR: I'm a programmer.

24 THE COURT: Programmer?

25 THE PROSPECTIVE JUROR: Yes, I was.

1 THE COURT: Are you doing that kind of work now?

2 THE PROSPECTIVE JUROR: No, I'm unemployed.

3 THE COURT: Looking for work?

4 THE PROSPECTIVE JUROR: Yes.

5 THE COURT: You have a cousin who works for the  
6 government?

7 THE PROSPECTIVE JUROR: Yes.

8 THE COURT: What does he do?

9 THE PROSPECTIVE JUROR: District attorney in the  
10 Bronx.

11 THE COURT: District attorney?

12 THE PROSPECTIVE JUROR: I think so.

13 THE COURT: Will that affect your decision here?

14 THE PROSPECTIVE JUROR: I don't know. I think  
15 she's in the criminal court, something like that.

16 THE COURT: You don't discuss cases with her?

17 THE PROSPECTIVE JUROR: Not really, no. Another  
18 one is a lawyer in New Jersey.

19 THE COURT: You were a witness in a case?

20 THE PROSPECTIVE JUROR: Yes, in grand jury.

21 THE COURT: Grand jury case?

22 THE PROSPECTIVE JUROR: Yes.

23 THE COURT: What was the case about?

24 THE PROSPECTIVE JUROR: It's regarding a money  
25 issue. Somebody -- I think they set a trap, something, for

1 the investment, so just for the money. He said no money, he  
2 has no money to give back, a few years.

3 THE COURT: Was that any of your money?

4 THE PROSPECTIVE JUROR: Yes, it was my money.

5 THE COURT: It was your money?

6 THE PROSPECTIVE JUROR: Yes.

7 THE COURT: How much did you lose?

8 THE PROSPECTIVE JUROR: I got all my money back.

9 THE COURT: You got it back?

10 THE PROSPECTIVE JUROR: Yes, only two people sue  
11 him. He only returned for two people.

12 THE COURT: You were happy with the way the law  
13 worked?

14 THE PROSPECTIVE JUROR: Not really. I have to keep  
15 track, take a few years. Every time the district attorney  
16 says okay, this guy left. So I have to keep tracking, okay,  
17 who take over this cases? I have to go to the head of the  
18 department. He say okay, go talk to this guy. If I don't  
19 keep following up, I would not get my money back.

20 THE COURT: You understand that just because a  
21 person is accused of a crime doesn't mean they're guilty  
22 necessarily. They're presumed to be innocent.

23 THE PROSPECTIVE JUROR: Yes.

24 THE COURT: Do you approve of that, that the  
25 government has to prove someone guilty beyond a reasonable

1 doubt?

2 THE PROSPECTIVE JUROR: Yes and no.

3 THE COURT: What's the problem?

4 THE PROSPECTIVE JUROR: I should say yes, but  
5 sometimes I feel not really. I have no idea how to explain  
6 that. I know I have to judge by everything, but sometimes I  
7 feel not really.

8 THE COURT: But in this case when I tell you to  
9 judge only by the evidence and I explain how you're to do it,  
10 will you do what I tell you to do?

11 THE PROSPECTIVE JUROR: I will try.

12 THE COURT: Will you try very hard?

13 THE PROSPECTIVE JUROR: Yes.

14 THE COURT: You think you will?

15 THE PROSPECTIVE JUROR: I think I will.

16 THE COURT: You understand because a person is  
17 charged with becoming a member of organized crime doesn't mean  
18 necessarily he was. He's presumed to be innocent like you,  
19 you understand that, until the government proves him guilty  
20 beyond a reasonable doubt.

21 THE PROSPECTIVE JUROR: Still, yes or no.

22 THE COURT: What's the problem?

23 THE PROSPECTIVE JUROR: It depends how the people  
24 is on that crime team.

25 THE COURT: I couldn't understand?

1 THE PROSPECTIVE JUROR: How long the person was in  
2 that group.

3 THE COURT: But they have to prove he was in the  
4 group beyond a reasonable doubt.

5 THE PROSPECTIVE JUROR: Then he has to convince me.

6 THE COURT: Who?

7 THE PROSPECTIVE JUROR: The person, not the  
8 government.

9 THE COURT: The person has to convince you?

10 THE PROSPECTIVE JUROR: Yes. Otherwise I have no  
11 idea based on -- I was not born here, I was growing in a  
12 different country, based on that.

13 THE COURT: You're excused.

14 THE PROSPECTIVE JUROR: Okay. Sorry.

15 (Juror exits.)

16 THE COURT: That was juror number 100.

17 THE CLERK: Juror 60.

18 (Juror enters.)

19 THE COURT: Sit down, wouldn't you please, madam?  
20 You know a Dennis Quirk?

21 THE PROSPECTIVE JUROR: I know of a Dennis Quirk,  
22 yes.

23 THE COURT: How?

24 THE PROSPECTIVE JUROR: He is the president of the  
25 union my husband once belonged to.

1           THE COURT:   His name may come up in connection with  
2 this case. Will you be able to decide based on the evidence  
3 only?

4           THE PROSPECTIVE JUROR:   Because I know Dennis  
5 Qui rk?

6           THE COURT:   Yes. Nevertheless, would you be a fair  
7 and impartial juror?

8           THE PROSPECTIVE JUROR:   I don't think I can be in  
9 this case, no.

10          THE COURT:   Why?

11          THE PROSPECTIVE JUROR:   Because my husband spent  
12 35 years in the courts. His two brothers worked in the  
13 courts. He has various and sundry cousins that work in the  
14 courts.

15          THE COURT:   What has that got to do with Dennis  
16 Qui rk?

17          THE PROSPECTIVE JUROR:   I believe on my  
18 questionnaire I put down that I read three different  
19 newspapers, one of them being the Daily News.

20          THE COURT:   What did you learn, do you think, from  
21 those newspapers?

22          THE PROSPECTIVE JUROR:   I recognize the gentleman's  
23 picture from the paper and the smaller picture next to it  
24 brought back some very bad memories that frightened me very  
25 much when my husband was just beginning his career.



1 THE COURT: You're excused. Thank you.

2 THE PROSPECTIVE JUROR: Thank you.

3 (Juror exits.)

4 THE CLERK: Juror number ten.

5 (Pause.)

6 THE CLERK: Number ten is not in the courtroom.

7 We'll move to number 90.

8 (Juror enters.)

9 THE COURT: Sit down.

10 THE PROSPECTIVE JUROR: How are you doing?

11 THE COURT: I'm fine. How are you doing today?

12 THE PROSPECTIVE JUROR: Good.

13 THE COURT: I wanted to ask you a few questions  
14 about your answers here. You've been a juror in a civil case,  
15 right?

16 THE PROSPECTIVE JUROR: Yeah.

17 THE COURT: You're a juror in '07 in the New York  
18 State court?

19 THE PROSPECTIVE JUROR: Yeah.

20 THE COURT: Will anything that you learned there  
21 affect your decision in the present case?

22 THE PROSPECTIVE JUROR: No. We didn't go back in  
23 the courtroom. They settled before we went in.

24 THE COURT: What was that?

25 THE PROSPECTIVE JUROR: They settled before we went

1 back in, yeah.

2 THE COURT: I see.

3 Who is prosecuted from your family or friend?

4 THE PROSPECTIVE JUROR: My brother.

5 THE COURT: For what?

6 THE PROSPECTIVE JUROR: Guns.

7 THE COURT: Possession?

8 THE PROSPECTIVE JUROR: They raided the house.

9 THE COURT: He served a day?

10 THE PROSPECTIVE JUROR: One of them served a day.

11 One served a week. There was two of them.

12 THE COURT: Really.

13 THE PROSPECTIVE JUROR: Mmm mm.

14 THE COURT: You think they were treated unfairly?

15 THE PROSPECTIVE JUROR: Yeah.

16 THE COURT: Why?

17 THE PROSPECTIVE JUROR: Because that's my own  
18 opinion, you know. One got one day, one got a week.

19 THE COURT: You thought they should get more?

20 THE PROSPECTIVE JUROR: They should have got less.

21 THE COURT: Why?

22 THE PROSPECTIVE JUROR: I forgot the case, but it  
23 was like they didn't have a search warrant or whatever, just  
24 ran there -- I wasn't there. I heard about it. That's what  
25 happened, yeah.

1 THE COURT: You thought they were innocent?

2 THE PROSPECTIVE JUROR: No, they wasn't innocent,  
3 but, you know. They was there. The guns was there.

4 THE COURT: Well, this is a different case. Can  
5 you be fair and impartial in the case before us?

6 THE PROSPECTIVE JUROR: Yes, I should, yeah.

7 THE COURT: Any further questions?

8 MS. SHARKEY: No.

9 THE COURT: You're approved.

10 THE PROSPECTIVE JUROR: I got approval? I just  
11 started another job, like a training program.

12 THE COURT: When?

13 THE PROSPECTIVE JUROR: On my job for handyman. We  
14 came Tuesday, but the position opened up when I went back  
15 Wednesday. They're training me for it.

16 THE COURT: You've been unemployed?

17 THE PROSPECTIVE JUROR: No.

18 THE COURT: Have you been unemployed up to now?

19 THE PROSPECTIVE JUROR: No.

20 THE COURT: But this is a new job?

21 THE PROSPECTIVE JUROR: Yes, a position that I've  
22 been waiting for to open up for me.

23 THE COURT: If you don't train, you lose the  
24 position?

25 THE PROSPECTIVE JUROR: Yeah, they skipped me like

1 four times.

2 THE COURT: You're excused.

3 THE PROSPECTIVE JUROR: Thank you.

4 (Juror exits.)

5 THE CLERK: Juror number 99.

6 (Juror enters.)

7 THE COURT: Hello. How are you?

8 THE PROSPECTIVE JUROR: Fine. Yourself?

9 THE COURT: Good. I'm going to ask you a few  
10 questions if you don't mind.

11 THE COURT: Your younger daughter was a target of a  
12 criminal investigation in Georgia?

13 THE PROSPECTIVE JUROR: Yes.

14 THE COURT: She's suspected of knowing something  
15 about the case?

16 THE PROSPECTIVE JUROR: Yes.

17 THE COURT: She received bail and ten years  
18 probation?

19 THE PROSPECTIVE JUROR: From my understanding, yes.

20 THE COURT: Will that affect your decision in this  
21 case?

22 THE PROSPECTIVE JUROR: No, it wouldn't affect my  
23 decision, but can I say one thing?

24 THE COURT: Yes.

25 THE PROSPECTIVE JUROR: I actually forgot, today

1 was my first day of school . I have class two days a week.

2 THE COURT: What hour?

3 THE PROSPECTIVE JUROR: From 9: 40 to 10: 55.

4 THE COURT: You're teaching?

5 THE PROSPECTIVE JUROR: No, I'm attending school .

6 THE COURT: You're excused.

7 THE PROSPECTIVE JUROR: Okay.

8 (Juror exits.)

9 THE CLERK: Juror number 26.

10 (Juror enters.)

11 THE COURT: How are you?

12 THE PROSPECTIVE JUROR: Hi , judge. How are you?

13 THE COURT: I'm fine. Where do you live?

14 THE PROSPECTIVE JUROR: I live in Staten Island,  
15 New York.

16 THE COURT: How do you get here?

17 THE PROSPECTIVE JUROR: I took an express bus into  
18 the city, then I came by the R train.

19 THE COURT: Where does the express bus leave you  
20 off?

21 THE PROSPECTIVE JUROR: Rector Street and Greenwich  
22 in New York City. The train is right there, I jump down, get  
23 in.

24 THE COURT: What does the bus do, go over the  
25 bridge?

1 THE PROSPECTIVE JUROR: Yes.

2 THE COURT: The question is do you have feelings  
3 about a witness seeking a reduced sentence by cooperating that  
4 would make it difficult for you fairly and impartially to  
5 consider that testimony or to render a guilty verdict based on  
6 the testimony of a witness. You crossed out no, then you  
7 wrote yes.

8 THE PROSPECTIVE JUROR: Yeah.

9 THE COURT: Would you explain that?

10 THE PROSPECTIVE JUROR: Yes, I kind of feel if you  
11 do a crime, you should pay the time. Even though there's a  
12 cooperation on that person's side, I feel maybe not a reduced  
13 sentence, but maybe other things. I just feel that way about  
14 that.

15 THE COURT: Well, many of the people do get  
16 sentenced, but will you follow my directions?

17 THE PROSPECTIVE JUROR: Absolutely.

18 THE COURT: On this issue?

19 THE PROSPECTIVE JUROR: Absolutely.

20 THE COURT: Any further questions?

21 You have any experience with cooperating witnesses,  
22 personal?

23 THE PROSPECTIVE JUROR: No.

24 THE COURT: You could, if I so instructed you, and  
25 follow my instructions accept such a witness' testimony?

1 THE PROSPECTIVE JUROR: Yes.

2 THE COURT: You're approved.

3 MR. BURLINGAME: One second, Judge (handing).

4 THE COURT: Have you ever read anything about this  
5 case?

6 THE PROSPECTIVE JUROR: No, I have never heard of  
7 it until I was summoned to court last Tuesday.

8 THE COURT: You're a member of some civic  
9 organization?

10 THE PROSPECTIVE JUROR: I am not.

11 THE COURT: Can you presume innocence if I direct  
12 you to do that even though the charge is organized crime?

13 THE PROSPECTIVE JUROR: Absolutely.

14 THE COURT: Approved. Thank you. You'll be juror  
15 number 20.

16 THE PROSPECTIVE JUROR: Thank you, have a good  
17 afternoon.

18 (Juror exits.)

19 THE CLERK: The next juror, 116.

20 (Pause.)

21 THE CLERK: We have number 29 now. There is number  
22 29 who was absent earlier, Judge.

23 (Juror enters).

24 THE COURT: Hello. How are you feeling today?

25 THE PROSPECTIVE JUROR: All right.

1 THE COURT: You're not working now, right?

2 THE PROSPECTIVE JUROR: No, I'm not working now.

3 THE COURT: Are you a student?

4 THE PROSPECTIVE JUROR: Yes.

5 THE COURT: Where?

6 THE PROSPECTIVE JUROR: New Haven, Lewis Avenue.

7 THE COURT: Are you disabled?

8 THE PROSPECTIVE JUROR: Partly disabled, yes, bad  
9 back.

10 THE COURT: What are you studying?

11 THE PROSPECTIVE JUROR: Actually, at my age I'm  
12 doing something I should have did in my younger years, going  
13 to get my GED.

14 THE COURT: You have a bad opinion about lawyers?

15 THE PROSPECTIVE JUROR: Not really.

16 THE COURT: You think they do their job?

17 THE PROSPECTIVE JUROR: The ones I deal with,  
18 correct. I'm not saying, I'm going to be honest with you, all  
19 of them, not everybody, you know, just the ones I dealt with  
20 was good lawyers. Lawyers are good lawyers.

21 THE COURT: Is the defendant entitled to a lawyer?

22 THE PROSPECTIVE JUROR: Everybody is entitled to a  
23 lawyer.

24 THE COURT: There's a question here, would you be  
25 able to consider evidence about racketeering, murder, murder



1 conspiracy and other crimes fairly and impartially in  
2 accordance with the instructions of the court. You wrote no.  
3 Why couldn't you follow my instructions?

4 THE PROSPECTIVE JUROR: Well, at the time I had my  
5 glasses -- I know I put some down there wrong. That's not  
6 exactly what I meant. I have bad eyes. If I don't have my  
7 glasses, I don't see very well. I knew I marked something  
8 wrong somewhere but I couldn't pinpoint it. It's not that I  
9 couldn't. If you have instructions on something, I could  
10 follow, yeah, you know.

11 THE COURT: You understand the indictment is just a  
12 charge. The government has to prove the defendant guilty  
13 beyond a reasonable doubt and he's presumed to be innocent,  
14 you understand that?

15 THE PROSPECTIVE JUROR: I understand that.

16 THE COURT: Are you okay with that rule?

17 THE PROSPECTIVE JUROR: Well, quite well because  
18 I've been charged a long time with a lot of things that  
19 haven't been proved yet, you know? Yes, I do understand.

20 THE COURT: Can you accept the fact that the  
21 defendant is presumed to be innocent unless the government  
22 meets its burden?

23 THE PROSPECTIVE JUROR: Yeah.

24 THE COURT: If I tell you not to read the papers,  
25 will you not read them?

1 THE PROSPECTIVE JUROR: Well, if it has something  
2 to do with the trial, I could do that, but if it's just not to  
3 read the papers, I don't think so.

4 THE COURT: No, if you want to read about the  
5 latest baseball scores, I'm not going to interfere, although  
6 the trial shouldn't run into the baseball season.

7 If I tell you not to discuss the case with anybody,  
8 will you follow my instruction?

9 THE PROSPECTIVE JUROR: Yes, that would be right.

10 THE COURT: Could you be fair and impartial in the  
11 case?

12 THE PROSPECTIVE JUROR: I can only deal with the  
13 evidence.

14 THE COURT: Any other questions?

15 MR. BURLINGAME: Yes (handing).

16 THE COURT: Are there any state charges or federal  
17 charges against you now?

18 THE PROSPECTIVE JUROR: No.

19 THE COURT: Do you have any resentment of the  
20 government?

21 THE PROSPECTIVE JUROR: No.

22 THE COURT: Anything further?

23 MR. BURLINGAME: No, your Honor.

24 THE COURT: You're approved. You become juror  
25 number 21. They'll seat you outside.

1 (Juror exits.)

2 THE CLERK: Juror 116.

3 (Juror enters.)

4 THE COURT: Hello. Would you sit down, please.

5 How are you feeling today?

6 THE PROSPECTIVE JUROR: I'm fine, thank you.

7 THE COURT: Can you be a fair juror?

8 THE PROSPECTIVE JUROR: Yes.

9 THE COURT: Any questions?

10 MS. SHARKEY: No.

11 THE COURT: Juror approved. Thank you. That's  
12 all. You can sit outside. They'll put you in the jury box.

13 (Juror exits.)

14 THE CLERK: Juror number 16.

15 (Pause.)

16 THE CLERK: We're switching to number 10 who has  
17 arrived, 10 is back.

18 THE CLERK: I apologize. We'll start with 16.

19 (Juror enters.)

20 THE COURT: How are you today?

21 THE PROSPECTIVE JUROR: I'm okay. How are you?

22 THE COURT: I'm fine, thank you.

23 You were a juror before?

24 THE PROSPECTIVE JUROR: I was a juror a few times,  
25 yes.

1 THE COURT: Ever in the federal court?

2 THE PROSPECTIVE JUROR: Yes.

3 THE COURT: What kind of case?

4 THE PROSPECTIVE JUROR: I was on a murder trial.

5 THE COURT: Did they come in with a guilty or not  
6 guilty verdict?

7 THE PROSPECTIVE JUROR: On that one it was guilty.

8 THE COURT: When was that?

9 THE PROSPECTIVE JUROR: That was '75, I think it  
10 was. Then the other two times were in Queens. One was an  
11 assault case. One was a robbery.

12 THE COURT: Will anything that you learned there  
13 affect your decision here?

14 THE PROSPECTIVE JUROR: No.

15 THE COURT: Will you follow my instructions?

16 THE PROSPECTIVE JUROR: I think I can.

17 THE COURT: Any further questions? You're approved.  
18 You're juror number 23. You'll be seated.

19 THE PROSPECTIVE JUROR: A different number now?

20 THE COURT: No, this is just for my file. Just  
21 keep your number.

22 (Juror exits.)

23 THE CLERK: Number 54.

24 (Juror enters.)

25 THE COURT: Hello. How are you?

1 THE PROSPECTIVE JUROR: I'm all right. Do I get to  
2 say anything before you ask me questions?

3 THE COURT: Sure.

4 THE PROSPECTIVE JUROR: I didn't say last week I  
5 have hypertension which I should have said. Right now you can  
6 definitely tell my heart is racing. I'm treated for it.

7 THE COURT: You're excused. I hope you feel  
8 better. Thank you.

9 THE PROSPECTIVE JUROR: Thank you.

10 (Juror exits.)

11 THE CLERK: Number 18.

12 (Juror enters.)

13 THE COURT: Hello. How are you?

14 THE PROSPECTIVE JUROR: Good.

15 THE COURT: You look like you're dressed for the  
16 weather.

17 THE PROSPECTIVE JUROR: It's cold out there.

18 THE COURT: What kind of work do you do?

19 THE PROSPECTIVE JUROR: Operation manager.

20 THE COURT: For what kind of firm?

21 THE PROSPECTIVE JUROR: Retail.

22 THE COURT: How long have you been employed?

23 THE PROSPECTIVE JUROR: For my present job?

24 THE COURT: Yes.

25 THE PROSPECTIVE JUROR: Two years.

1 THE COURT: Before that?

2 THE PROSPECTIVE JUROR: Restaurant business.

3 THE COURT: Restaurant?

4 THE PROSPECTIVE JUROR: Fast food.

5 THE COURT: How many years?

6 THE PROSPECTIVE JUROR: Twelve years.

7 THE COURT: How is the business now, good or bad?

8 THE PROSPECTIVE JUROR: So far so good.

9 THE COURT: Good, you're lucky.

10 Do you or a family member belong to any religious or  
11 civic organizations?

12 THE PROSPECTIVE JUROR: No.

13 THE COURT: Have you ever been a grand juror.

14 THE PROSPECTIVE JUROR: (Indicating.)

15 THE COURT: Speak.

16 THE PROSPECTIVE JUROR: No.

17 THE COURT: Have you ever been a juror in a civil  
18 case?

19 THE PROSPECTIVE JUROR: No.

20 THE COURT: Criminal case?

21 THE PROSPECTIVE JUROR: No.

22 THE COURT: Can you be fair and impartial?

23 THE PROSPECTIVE JUROR: Yes.

24 THE COURT: You're approved. Thank you.

25 MR. FARBER: Here, Judge (handing).

1 THE COURT: Would you be able to be fair in a case  
2 where a defendant is accused of being a member of organized  
3 crime?

4 THE PROSPECTIVE JUROR: Yes.

5 THE COURT: Thank you. You're approved, number 24.  
6 (Juror exits.)

7 THE CLERK: Juror number 93.

8 (Juror enters.)

9 THE COURT: Hello. How are you feeling?

10 THE PROSPECTIVE JUROR: Good.

11 THE COURT: I'm going to ask you a few questions.

12 THE PROSPECTIVE JUROR: Okay.

13 THE COURT: Who do you know that worked in  
14 accounting or auditing?

15 THE PROSPECTIVE JUROR: I work in an accounting  
16 firm.

17 THE COURT: What do you do?

18 THE PROSPECTIVE JUROR: Receptionist, admin.

19 THE COURT: How long have you been doing that?

20 THE PROSPECTIVE JUROR: Two years.

21 THE COURT: Before that?

22 THE PROSPECTIVE JUROR: Before that I worked at a  
23 club in the city.

24 THE COURT: You had a close friend who was raped  
25 and beaten?

1 THE PROSPECTIVE JUROR: Yes, she lived, though.

2 THE COURT: Sorry to hear that.

3 THE PROSPECTIVE JUROR: That's okay.

4 THE COURT: Can you be fair and impartial in this  
5 case?

6 THE PROSPECTIVE JUROR: Yes.

7 THE COURT: You've known somebody who has been the  
8 victim of a homicide?

9 THE PROSPECTIVE JUROR: My aunt-in-law's brother  
10 was killed, they never found the guy.

11 THE COURT: They never found the murderer?

12 THE PROSPECTIVE JUROR: No.

13 THE COURT: Can you be fair and impartial in the  
14 present case?

15 THE PROSPECTIVE JUROR: Yes, it's a different case.

16 THE COURT: Any further questions? Approved. Thank  
17 you.

18 THE PROSPECTIVE JUROR: Thank you.

19 (Juror exits.)

20 THE COURT: Number 25.

21 THE CLERK: The next is juror number 40.

22 (Juror enters.)

23 THE COURT: Hello. How are you feeling?

24 THE PROSPECTIVE JUROR: Okay.

25 THE COURT: I'm going to ask you a few questions.



1 THE PROSPECTIVE JUROR: Sure.

2 THE COURT: You followed the cases of the killing  
3 in Florida, the little baby?

4 THE PROSPECTIVE JUROR: Yes.

5 THE COURT: What's your reaction?

6 THE PROSPECTIVE JUROR: Well, they all seem to  
7 think she's guilty unless they say otherwise.

8 THE COURT: You understand in the present case  
9 you're going to have to rely on evidence and my instructions,  
10 can you do that?

11 THE PROSPECTIVE JUROR: Yes, I can.

12 THE COURT: You know a sergeant in the police  
13 department?

14 THE PROSPECTIVE JUROR: Yes.

15 THE COURT: Will that affect your decision?

16 THE PROSPECTIVE JUROR: No.

17 THE COURT: Can you be fair and impartial?

18 THE PROSPECTIVE JUROR: Yes.

19 THE COURT: Any further questions? You're approved.

20 THE PROSPECTIVE JUROR: Thank you.

21 (Juror exits.)

22 THE COURT: Number 26.

23 THE CLERK: Juror 110.

24 (Juror enters.)

25 THE COURT: Hello. How are you?

1 THE PROSPECTIVE JUROR: Fine, thank you.

2 THE COURT: You understand the defendant is  
3 presumed to be innocent?

4 THE PROSPECTIVE JUROR: Yes.

5 THE COURT: The government has the burden of  
6 proving him guilty beyond a reasonable doubt. Speak.

7 THE PROSPECTIVE JUROR: Can you repeat the  
8 question, I'm sorry.

9 THE COURT: You understand that the government has  
10 the burden of proving the defendant guilty beyond a reasonable  
11 doubt?

12 THE PROSPECTIVE JUROR: Yes.

13 THE COURT: You approve of those constitutional  
14 rules?

15 THE PROSPECTIVE JUROR: Yes.

16 THE COURT: Will you follow my instructions on the  
17 law.

18 THE PROSPECTIVE JUROR: (No response.)

19 THE COURT: Would you follow my instructions on the  
20 law?

21 THE PROSPECTIVE JUROR: Of course, yes.

22 THE COURT: If I told you not to discuss these  
23 matters with anybody, until I told you to deliberate, would  
24 you follow my instructions?

25 THE PROSPECTIVE JUROR: Yes.

1 THE COURT: Any further questions?

2 MR. FARBER: Yes.

3 MR. BURLINGAME: Yes.

4 THE COURT: What is your juror number?

5 THE PROSPECTIVE JUROR: 36.

6 THE COURT: 36?

7 THE PROSPECTIVE JUROR: Yes.

8 THE CLERK: 36 was the next one in line. This is  
9 juror number 36.

10 THE COURT: While she's here -- let's do 110 now.  
11 You're number 36?

12 THE PROSPECTIVE JUROR: Yes.

13 THE COURT: We'll do number 36, keep her in place.

14 THE CLERK: Here is juror number 36, your Honor  
15 (indicating).

16 THE COURT: Your husband was a witness to a crime?

17 THE PROSPECTIVE JUROR: Yes.

18 THE COURT: You thought the prosecution of the  
19 defendant was unfair?

20 THE PROSPECTIVE JUROR: Yes.

21 THE COURT: Could you tell me in some greater  
22 detail what happened?

23 THE PROSPECTIVE JUROR: My husband works in a store  
24 as a sales person. The store sells a lot of stuff, a  
25 department store. Kitchenware, knives. One day the police

1 came and the police arrested him because they found those  
2 knives are illegal. So, he was arrested.

3 THE COURT: Was he convicted?

4 THE PROSPECTIVE JUROR: It's called disorder  
5 conduct.

6 THE COURT: Disorderly?

7 THE PROSPECTIVE JUROR: Yes.

8 THE COURT: He didn't go to jail?

9 THE PROSPECTIVE JUROR: No.

10 THE COURT: What kind of knife was it, where you  
11 flip them open?

12 THE PROSPECTIVE JUROR: Yes.

13 THE COURT: For cutting linoleum?

14 THE PROSPECTIVE JUROR: You open -- I don't know  
15 because I never went to the store to see what kind of knife  
16 but it was considered illegal knives, yes.

17 THE COURT: Could you be fair and impartial in this  
18 case, the present case?

19 THE PROSPECTIVE JUROR: Yes.

20 THE COURT: Will you follow my instructions on how  
21 the testimony of the police should be considered by the jury?

22 THE PROSPECTIVE JUROR: Yes.

23 THE COURT: Any further questions?

24 MR. FARBER: Yes.

25 THE COURT: The defendant is charged with being a

1 member of organized crime, but the government has to prove  
2 that beyond a reasonable doubt. Can you sit on such a case?

3 THE PROSPECTIVE JUROR: Yes.

4 THE COURT: Thank you very much. I'm sorry about  
5 your husband.

6 THE PROSPECTIVE JUROR: Thank you, but it was okay.  
7 He became an American citizen after that, but he was so scared  
8 he would not become an American citizen after the incident,  
9 but it was okay. Thank you so much.

10 THE COURT: Tell him I apologize, I'm so sorry.

11 THE PROSPECTIVE JUROR: I will.

12 (Juror exits.)

13 THE COURT: I had such a case involving those  
14 knives and declared them perfectly legal. They're sold by the  
15 hundreds of thousands. The police were arresting people.

16 THE CLERK: Number 110 is not here. We'll move to  
17 number 12.

18 THE COURT: 36 is approved.

19 (Juror enters.)

20 THE COURT: You're number 12?

21 THE PROSPECTIVE JUROR: Yes.

22 THE COURT: How are you today?

23 THE PROSPECTIVE JUROR: Fine, how are you?

24 THE COURT: Just fine, thank you.

25 You have an opinion about how the Mafia operates,

1 correct?

2 THE PROSPECTIVE JUROR: Correct.

3 THE COURT: But nevertheless will you follow my  
4 instructions in deciding this case on the evidence?

5 THE PROSPECTIVE JUROR: Yes.

6 THE COURT: Will you put out of your mind what you  
7 learned from the media and other things and decide only on  
8 what you learn in this court?

9 THE PROSPECTIVE JUROR: Yes, I believe I could.

10 THE COURT: Will you follow my instructions if I  
11 give them to you that a defendant does not need to testify and  
12 you cannot consider that fact in reaching a decision? That's  
13 a constitutional right not to testify.

14 THE PROSPECTIVE JUROR: Right. Yes, I could look  
15 past him not testifying.

16 THE COURT: I'm sorry?

17 THE PROSPECTIVE JUROR: I would be able to look  
18 past him not testifying even though I believe --

19 THE COURT: Just ignore that, the fact that he  
20 didn't testify?

21 THE PROSPECTIVE JUROR: Mmm mm.

22 THE COURT: He has no burden to testify.

23 THE PROSPECTIVE JUROR: Okay.

24 THE COURT: Any further questions?

25 MR. FARBER: Yes. (Continued on next page.)

1 (Pause. )

2 THE COURT: What opinion do you have -- I'm not  
3 going to go into this.

4 I want to make that point very clear, that if the  
5 defendant doesn't testify, he has a constitutional right not  
6 to testify. There may be many reasons why he doesn't testify.

7 THE PROSPECTIVE JUROR: Right.

8 THE COURT: He may not be hiding anything.

9 THE PROSPECTIVE JUROR: Yes, I understand.

10 THE COURT: You'll follow my instructions?

11 THE PROSPECTIVE JUROR: Yes.

12 THE COURT: Anything further?

13 MS. SHARKEY: One more.

14 THE COURT: The burden of proof beyond a reasonable  
15 doubt is on the government. You accept that, don't you?

16 THE PROSPECTIVE JUROR: Yes.

17 THE COURT: Approve 28.

18 Thank you.

19 THE PROSPECTIVE JUROR: Thank you.

20 (Prospective juror leaves courtroom.)

21 THE LAW CLERK: Next, we have Juror 105.

22 MR. BURLINGAME: Ten still can't be found?

23 THE LAW CLERK: No.

24 (Prospective juror enters courtroom.)

25 THE COURT: How are you today?

1 THE PROSPECTIVE JUROR: Okay.

2 THE COURT: You have a half-brother who is a federal  
3 judge?

4 THE PROSPECTIVE JUROR: Yes.

5 THE COURT: Would you look to me rather than your  
6 half-brother for instructions on how to decide this case?

7 THE PROSPECTIVE JUROR: Of course.

8 THE COURT: What state agency did you or do you work  
9 for?

10 THE PROSPECTIVE JUROR: New York City Transit.

11 THE COURT: How long?

12 THE PROSPECTIVE JUROR: Since '85.

13 THE COURT: Your sister is a bookkeeper?

14 THE PROSPECTIVE JUROR: Well, she was.

15 THE COURT: Was. And your brother, a stockbroker?

16 THE PROSPECTIVE JUROR: Yes.

17 THE COURT: There may be some evidence on those  
18 issues.

19 Will you follow my instructions and the evidence?

20 THE PROSPECTIVE JUROR: Of course.

21 THE COURT: The SEC prosecuted your brother on  
22 charges of conspiracy to commit fraud?

23 THE PROSPECTIVE JUROR: I believe those were the  
24 charges, yes.

25 THE COURT: They withdrew the charges?



1 THE PROSPECTIVE JUROR: No.

2 THE COURT: What happened?

3 THE PROSPECTIVE JUROR: He was found guilty and did  
4 ten months in some place upstate, a prison camp.

5 THE COURT: Will that affect your decision here?

6 THE PROSPECTIVE JUROR: No.

7 THE COURT: Your brother worked in the legal field.  
8 What was he, an attorney?

9 THE PROSPECTIVE JUROR: Yes.

10 THE COURT: In criminal cases or civil?

11 THE PROSPECTIVE JUROR: Both. He was an Assistant  
12 DA and a defense attorney before he became a judge.

13 THE COURT: Before he became a judge, he did some  
14 criminal work, did he?

15 THE PROSPECTIVE JUROR: Yes.

16 THE COURT: You were robbed at gunpoint?

17 THE PROSPECTIVE JUROR: Yes.

18 THE COURT: Will that affect your decision?

19 THE PROSPECTIVE JUROR: No.

20 THE COURT: Any members of your family or friends  
21 under subpoena to testify?

22 THE PROSPECTIVE JUROR: No.

23 THE COURT: Is your brother a judge in this  
24 district?

25 THE PROSPECTIVE JUROR: I believe so. We don't

1 really talk shop. I believe last time, he told me Eastern  
2 District.

3 THE COURT: Will that affect your decision?

4 THE PROSPECTIVE JUROR: No.

5 THE COURT: Anything further?

6 MR. BURLINGAME: No, your Honor.

7 MS. SHARKEY: No, your Honor.

8 THE COURT: All right. You are approved. Thank  
9 you.

10 (Prospective juror leaves courtroom.)

11 THE LAW CLERK: Juror No. 85.

12 (Prospective juror enters courtroom.)

13 THE COURT: Sit down, please, madam.

14 How are you?

15 THE PROSPECTIVE JUROR: Hello, gentlemen.

16 THE COURT: Are you nervous?

17 THE PROSPECTIVE JUROR: A little, yes, sir.

18 THE COURT: Of course, it's intimidating to be in a  
19 room with all these people.

20 What kind of work do you do?

21 THE PROSPECTIVE JUROR: Right now, I do  
22 waitstaffing. I've been doing it for a couple of years. And  
23 I'm trying to finish school, medical billing and coding,  
24 Sanford Brown, it's in Mineola, Garden City, across the street  
25 from the Marines. They have a small naval base.

1 THE COURT: How long have you been employed?

2 THE PROSPECTIVE JUROR: I started in 2005.

3 THE COURT: Your father did what kind of work?

4 THE PROSPECTIVE JUROR: He worked in the airport at  
5 the -- it was LaGuardia, Idlewild and turned to LaGuardia. He  
6 worked for -- it's called -- at the time, it was called Radio,  
7 in the airlines. Now, it's FAA. Then he became a policeman.  
8 He left and became a policeman.

9 And I have a cousin that did just the opposite. He  
10 was a Transit Authority cop, and his last name is Nars, (ph.)  
11 and he left because we had a death in the family. One of our  
12 kin fell on the tracks. Under stress, he left and went to  
13 work for British Air.

14 THE COURT: You have a son-in-law?

15 THE PROSPECTIVE JUROR: He was my cousin.

16 THE COURT: Will that affect your ability to be  
17 fair?

18 THE PROSPECTIVE JUROR: I think it's pretty good.

19 THE COURT: You have a good ability to be fair?

20 THE PROSPECTIVE JUROR: I mean, we have so many  
21 death suits and stuff like that in the family. We were sued.  
22 My mother died in a very bad accident, Suffolk State, and we  
23 were sued. She hit five oncoming cars.

24 THE COURT: But you yourself could be fair as a  
25 juror?

1 THE PROSPECTIVE JUROR: Of course. Right now, yes.  
2 Hmm.

3 THE COURT: Have you or a member of your family or  
4 friends been witness to a crime?

5 THE PROSPECTIVE JUROR: Most of them are policemen.  
6 If I saw anything or I witnessed anything, it was liable to  
7 them, everything. Everything. Just last name said, and they  
8 took over.

9 THE COURT: Would you be able to consider evidence  
10 of racketeering, murder, murder, conspiracy and other crimes  
11 fairly and impartially in accordance with my directions?

12 THE PROSPECTIVE JUROR: Your Honor, I'm not trying  
13 to question you, because I don't have the authority. In a  
14 case where a person, they don't know if the person was pushed  
15 in the tracks or if she jumped on the tracks, that's what the  
16 ultimatum was, how would you feel that would be? Would that  
17 be mindboggling, or you have to figure out the difference if  
18 she jumped or was pushed? That's what we had to go through  
19 for a couple of years, and I don't really believe they knew if  
20 she jumped or she was pushed.

21 THE COURT: But she was possibly the victim of a  
22 homicide.

23 THE PROSPECTIVE JUROR: I've known my cousin. I  
24 don't think she would jump to hurt us all.

25 THE COURT: Do you understand that an indictment is

1 not evidence, it's just an accusation, and the government has  
2 to prove the case beyond a reasonable doubt?

3 THE PROSPECTIVE JUROR: According to what the  
4 situation, what it is. But with an indictment, I thought that  
5 that was part of being guilty or not guilty; right?

6 THE COURT: No. It's just a way of bringing a  
7 charge into court.

8 THE PROSPECTIVE JUROR: Okay.

9 THE COURT: It's entitled to no weight whatsoever.  
10 Can you accept the fact that the defendant is  
11 presumed to be innocent?

12 THE PROSPECTIVE JUROR: Yes.  
13 You're talking about this very case?

14 THE COURT: Correct.

15 THE PROSPECTIVE JUROR: In this instance, as far as  
16 them, I could not even go there. I would put my vote in, but  
17 I would leave it probably with everybody else's, whatever the  
18 vote was, him being guilty.

19 THE COURT: I see. Okay. Thank you very much for  
20 your help. You are excused.

21 THE PROSPECTIVE JUROR: Thank you.  
22 (Prospective juror leaves courtroom.)

23 THE COURT: Okay. That's it.

24 9:30 tomorrow.

25 MS. SHARKEY: Before we break, I have an application

1 that is based on one of the things that came up during jury  
2 selection. Would you like to hear it now or tomorrow morning?

3 THE COURT: Tomorrow morning.

4 Juror Number 35, the next juror, says she has  
5 medical issues and she can't serve. I'm excusing her.

6 (Case adjourned to Tuesday, January 27, 200, at  
7 9:30 a.m.)

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|---|---|--|
|   | 30 - 6: 5, 6: 14, 7: 21, 21: 17<br>31 - 7: 22, 9: 8<br>32 - 7: 23, 9: 5<br>33 - 7: 24, 9: 4<br>34 - 7: 16, 7: 25, 84: 24<br>35 - 8: 1, 8: 11, 96: 12, 126: 4<br>350 - 1: 19<br>36 - 8: 2, 8: 7, 115: 5, 115: 6, 115: 8,<br>115: 9, 115: 11, 115: 13, 115: 14, 117: 18<br>37 - 8: 3<br>38 - 7: 5, 8: 4, 47: 14, 48: 1<br>39 - 7: 11, 8: 5, 69: 9 | 88 - 6: 7, 28: 7<br>89 - 8: 23   |
| '02 - 78: 3<br>'03 - 78: 2, 78: 4<br>'07 - 97: 17<br>'75 - 108: 9<br>'80s - 17: 23<br>'85 - 120: 12   |   |  |
| 0   | 4   | 9  |
| 08-cr-76 - 1: 3   |   | 90 - 7: 22, 97: 7<br>93 - 8: 4, 111: 7<br>94 - 8: 22<br>98 - 9: 7, 75: 3, 75: 7, 75: 8, 75: 9, 75: 10,<br>75: 14, 75: 17<br>99 - 100: 5<br>9:00 - 75: 22<br>9:30 - 1: 6, 75: 23, 75: 24, 76: 4, 125: 24,<br>126: 7<br>9:40 - 101: 3  |
| 1   | 4 - 63: 25<br>40 - 8: 5, 8: 6, 69: 2, 69: 4, 112: 21<br>41 - 7: 7, 8: 7, 52: 5<br>42 - 8: 8, 8: 19<br>43 - 8: 9<br>44 - 8: 10, 9: 12<br>45 - 7: 4, 8: 11, 45: 20, 45: 25, 69: 7,<br>87: 24, 87: 25<br>46 - 8: 12, 8: 21<br>47 - 8: 13, 9: 2<br>48 - 8: 14, 8: 16<br>49 - 7: 8, 8: 15, 53: 20  | A  |
| 1 - 2: 7, 64: 9, 89: 20<br>10 - 107: 16, 107: 17<br>100 - 7: 19, 24: 9, 66: 7, 66: 9, 66: 10,<br>66: 11, 66: 12, 66: 13, 66: 25, 91: 5, 95: 16<br>10013 - 1: 20<br>101 - 7: 13, 79: 19<br>102 - 9: 19<br>105 - 8: 9, 119: 21<br>106 - 8: 13<br>107 - 7: 17, 87: 15<br>108 - 9: 21<br>10:55 - 101: 3<br>10th - 1: 19<br>11 - 6: 21, 7: 10, 67: 14, 67: 15<br>110 - 8: 6, 113: 23, 115: 10, 117: 16<br>11201 - 1: 16, 1: 22<br>11242 - 1: 18<br>113 - 8: 14<br>114 - 6: 20, 40: 14<br>116 - 7: 25, 103: 19, 107: 2<br>118 - 8: 24<br>12 - 5: 14, 6: 22, 7: 1, 8: 8, 68: 19, 68: 23,<br>68: 24, 68: 25, 69: 5, 117: 17, 117: 20<br>120 - 9: 22<br>12:00 - 74: 7<br>13 - 7: 4, 9: 15, 86: 19, 87: 11<br>13:s - 79: 17<br>14 - 7: 5, 8: 25, 81: 7<br>15 - 7: 6, 82: 21<br>16 - 7: 7, 8: 1, 69: 5, 84: 23, 107: 14,<br>107: 18<br>17 - 7: 8, 87: 4<br>18 - 7: 9, 8: 3, 69: 4, 89: 3, 109: 11<br>19 - 7: 10, 91: 2<br>1985 - 32: 9<br>1:30 - 76: 1 | 5   | a - 1: 10, 3: 8, 3: 10, 3: 15, 4: 21, 5: 2, 5: 5,<br>5: 18, 5: 20, 10: 24, 11: 5, 11: 6, 11: 15,<br>11: 23, 12: 3, 12: 19, 13: 25, 14: 8, 14: 17,<br>14: 19, 14: 25, 15: 13, 16: 7, 16: 15, 16: 18,<br>17: 9, 17: 15, 17: 19, 17: 20, 18: 3, 18: 4,<br>18: 11, 19: 24, 20: 7, 20: 13, 21: 2, 21: 3,<br>21: 4, 21: 14, 21: 24, 21: 25, 22: 2, 22: 4,<br>22: 10, 22: 24, 23: 5, 23: 7, 23: 11, 23: 18,<br>23: 23, 24: 15, 25: 17, 26: 5, 26: 14, 26: 23,<br>26: 25, 27: 15, 28: 16, 28: 18, 28: 19,<br>30: 23, 30: 24, 31: 1, 31: 16, 32: 10, 32: 19,<br>33: 6, 33: 8, 34: 2, 34: 4, 34: 8, 34: 9, 35: 7,<br>35: 16, 35: 23, 36: 7, 36: 12, 36: 18, 36: 19,<br>37: 3, 37: 8, 37: 10, 38: 3, 38: 5, 38: 9,<br>38: 12, 38: 24, 39: 3, 39: 10, 39: 12, 39: 17,<br>39: 20, 39: 23, 40: 1, 40: 11, 41: 3, 41: 9,<br>41: 21, 41: 25, 42: 6, 42: 24, 42: 25, 43: 2,<br>43: 20, 43: 24, 44: 1, 44: 6, 44: 14, 44: 21,<br>45: 7, 45: 8, 45: 18, 46: 9, 47: 8, 48: 18,<br>49: 5, 49: 9, 50: 9, 50: 14, 51: 13, 51: 14,<br>51: 15, 51: 21, 52: 10, 52: 14, 52: 20,<br>52: 21, 53: 6, 53: 12, 54: 9, 54: 13, 54: 18,<br>54: 19, 55: 4, 55: 12, 55: 23, 56: 1, 56: 6,<br>56: 9, 56: 15, 56: 18, 58: 16, 58: 24, 58: 25,<br>59: 21, 60: 1, 61: 8, 62: 15, 63: 24, 64: 15,<br>65: 19, 65: 20, 66: 1, 66: 6, 66: 23, 67: 18,<br>67: 22, 67: 24, 69: 20, 70: 7, 71: 3, 71: 13,<br>71: 20, 72: 1, 72: 2, 72: 3, 72: 5, 72: 15,<br>72: 19, 72: 23, 73: 10, 74: 2, 74: 6, 75: 2,<br>75: 6, 77: 6, 77: 8, 77: 21, 77: 25, 78: 2,<br>78: 16, 80: 4, 80: 7, 80: 15, 80: 22, 83: 3,<br>83: 6, 83: 17, 84: 10, 84: 14, 85: 11, 85: 13,<br>85: 20, 86: 2, 86: 6, 86: 9, 86: 20, 87: 6,<br>88: 2, 88: 8, 88: 9, 88: 12, 89: 8, 89: 10,<br>90: 2, 91: 16, 91: 23, 92: 5, 92: 18, 92: 19,<br>92: 24, 92: 25, 93: 2, 93: 15, 93: 20, 93: 21,<br>93: 25, 94: 16, 94: 17, 94: 20, 95: 4, 95: 11,<br>95: 20, 95: 21, 96: 6, 97: 13, 97: 14, 97: 17,<br>98: 9, 98: 10, 98: 11, 98: 18, 98: 23, 99: 4,<br>99: 11, 99: 20, 99: 21, 100: 9, 100: 11,<br>101: 1, 102: 3, 102: 5, 102: 6, 102: 11,<br>102: 12, 102: 25, 103: 8, 103: 16, 104: 3,<br>104: 14, 104: 21, 104: 22, 104: 24,<br>105: 11, 105: 13, 105: 18, 107: 7, 107: 23,<br>107: 24, 108: 4, 108: 5, 108: 11, 110: 10,<br>110: 13, 110: 17, 111: 1, 111: 2, 111: 11,<br>111: 22, 111: 24, 112: 8, 112: 15, 112: 25,<br>113: 12, 114: 6, 114: 10, 115: 16, 115: 23,<br>115: 24, 116: 25, 117: 2, 117: 13, 118: 11,<br>118: 12, 118: 13, 119: 5, 119: 14, 120: 2,<br>120: 13, 120: 15, 121: 4, 121: 12, 121: 13,<br>121: 23, 122: 18, 122: 22, 122: 25, 123: 7,<br>123: 8, 123: 9, 123: 10, 123: 11, 123: 14,<br>123: 19, 123: 22, 123: 24, 124: 3, 124: 4,<br>124: 13, 124: 14, 124: 19, 124: 21, 125: 2,<br>125: 6<br>A - 10: 14, 14: 2, 16: 7, 16: 12, 16: 18,<br>54: 19, 67: 3, 69: 16, 75: 1, 84: 16, 88: 11,<br>90: 14, 108: 19, 122: 17<br>ability - 14: 11, 20: 6, 26: 22, 49: 13,<br>57: 14, 78: 22, 86: 24, 123: 16, 123: 19<br>able - 5: 20, 24: 10, 35: 10, 45: 2, 79: 1, |
| 2   | 6   |  |
| 2 - 2: 8, 89: 20<br>20 - 7: 11, 7: 14, 81: 18, 103: 15<br>200 - 126: 6<br>2005 - 123: 2<br>2009 - 1: 6, 2: 8<br>21 - 7: 12, 8: 20, 106: 25<br>22 - 7: 13<br>225 - 1: 22<br>23 - 2: 16, 7: 14, 9: 16, 62: 7, 108: 18<br>23rd - 68: 9<br>24 - 2: 4, 7: 15, 46: 14, 111: 5<br>25 - 2: 8, 6: 3, 7: 16, 13: 16, 13: 18, 14: 6,<br>112: 20<br>26 - 1: 6, 1: 17, 7: 17, 7: 24, 101: 9,<br>113: 22<br>27 - 6: 4, 7: 18, 15: 24, 126: 6<br>271 - 1: 15<br>28 - 7: 19, 119: 17<br>2805 - 1: 17<br>29 - 6: 17, 7: 20, 30: 5, 30: 6, 34: 21,<br>34: 23, 45: 22, 45: 23, 103: 21, 103: 22  | 7   |  |
| 3   | 8   |  |
| 3 - 2: 16, 89: 20   | 80 - 9: 17, 9: 21<br>81 - 9: 13, 9: 22<br>82 - 9: 1, 86: 12<br>82-c - 86: 9<br>83 - 8: 17<br>84 - 8: 15<br>84b - 14: 13, 16: 12<br>85 - 8: 10, 122: 11  |  |

85: 23, 96: 2, 104: 25, 111: 1, 118: 17, 124: 9  
**about** - 3: 11, 3: 17, 4: 9, 14: 13, 14: 17, 16: 13, 23: 6, 24: 3, 24: 22, 25: 17, 27: 1, 28: 19, 29: 21, 31: 1, 31: 14, 33: 21, 35: 15, 41: 23, 46: 17, 49: 17, 60: 24, 63: 4, 64: 10, 64: 15, 65: 24, 67: 4, 69: 7, 76: 5, 78: 16, 78: 21, 79: 2, 80: 4, 80: 7, 80: 10, 81: 1, 83: 6, 84: 3, 85: 12, 85: 23, 86: 9, 92: 23, 97: 14, 98: 24, 100: 15, 102: 3, 102: 13, 103: 4, 104: 14, 104: 25, 106: 4, 117: 4, 117: 25, 125: 13  
**About** - 54: 8, 88: 9  
**absent** - 45: 18, 103: 22  
**absolute** - 75: 23  
**absolutely** - 18: 12, 55: 22, 86: 4  
**Absolutely** - 20: 20, 34: 10, 62: 13, 84: 5, 102: 17, 102: 19, 103: 13  
**Academy** - 41: 7  
**academy** - 41: 16  
**accept** - 80: 18, 102: 25, 105: 20, 119: 15, 125: 10  
**accepted** - 50: 20  
**accident** - 123: 22  
**accidentally** - 58: 8  
**accomplish** - 72: 17  
**accordance** - 79: 4, 85: 25, 105: 2, 124: 11  
**according** - 18: 5, 83: 24  
**According** - 70: 17, 125: 3  
**accountant** - 91: 17  
**accounting** - 111: 14, 111: 15  
**accusation** - 125: 1  
**accused** - 22: 4, 37: 3, 58: 25, 60: 13, 71: 18, 72: 19, 93: 21, 111: 2  
**acid** - 2: 9, 24: 22  
**across** - 43: 2, 43: 13, 78: 15, 122: 24  
**action** - 2: 17  
**Action** - 31: 3, 31: 5, 33: 15  
**actions** - 2: 19  
**active** - 33: 4, 33: 9  
**activity** - 86: 17  
**actor** - 82: 9  
**actually** - 4: 18, 29: 1, 57: 11, 59: 22, 100: 25  
**Actually** - 30: 23, 33: 20, 104: 11  
**address** - 77: 7  
**addresses** - 48: 23  
**adjourn** - 4: 25, 5: 3  
**adjourned** - 126: 6  
**admin** - 111: 18  
**Administration** - 68: 4, 68: 12  
**admitted** - 36: 7  
**affect** - 26: 22, 29: 13, 31: 11, 32: 23, 33: 11, 34: 4, 43: 5, 43: 8, 49: 13, 52: 24, 78: 22, 86: 24, 88: 18, 92: 13, 97: 21, 100: 20, 100: 22, 108: 13, 113: 15, 121: 5, 121: 18, 122: 3, 123: 16  
**affected** - 73: 9  
**afraid** - 66: 20, 66: 23, 76: 6  
**After** - 3: 21  
**after** - 4: 5, 4: 10, 5: 8, 18: 3, 74: 7, 117: 7, 117: 8  
**afternoon** - 78: 8, 103: 17  
**Again** - 58: 16  
**again** - 19: 18, 28: 1, 34: 6, 69: 4, 80: 6  
**against** - 106: 17  
**age** - 56: 13, 104: 11  
**agencies** - 85: 21  
**agency** - 25: 25, 120: 8  
**agent** - 3: 6, 50: 8, 71: 8  
**agents** - 2: 21, 2: 22  
**ago** - 11: 2, 11: 16, 32: 10, 32: 17, 46: 16, 46: 17, 60: 22, 77: 6, 88: 10, 89: 9  
**agree** - 35: 25, 36: 1, 36: 4, 80: 23, 82: 13, 82: 15  
**Air** - 123: 13  
**airlines** - 123: 7  
**airport** - 123: 4  
**alive** - 57: 12

**all** - 11: 3, 11: 14, 12: 25, 14: 2, 16: 17, 26: 25, 32: 25, 43: 11, 49: 10, 51: 23, 56: 20, 57: 24, 62: 10, 69: 6, 73: 17, 78: 3, 78: 25, 91: 12, 93: 8, 104: 18, 107: 12, 109: 1, 113: 6, 122: 19, 124: 24  
**All** - 4: 25, 15: 16, 16: 24, 17: 12, 25: 10, 42: 5, 47: 12, 65: 6, 103: 25, 122: 8  
**allegations** - 22: 12, 23: 10  
**alleged** - 55: 5  
**Allegedly** - 58: 6  
**allegedly** - 61: 6, 82: 9  
**allowed** - 56: 13  
**allows** - 16: 24  
**Almost** - 47: 4  
**already** - 28: 4, 45: 12  
**also** - 11: 22, 12: 3  
**Also** - 60: 20  
**altar** - 19: 25, 21: 4, 40: 5  
**alternates** - 5: 15, 69: 1, 69: 6  
**although** - 106: 5  
**Although** - 20: 22  
**always** - 4: 13, 72: 3, 72: 7  
**Am** - 1: 6, 65: 4, 126: 7  
**am** - 3: 17, 14: 7, 19: 13, 19: 18, 20: 13, 53: 6, 55: 4, 65: 14, 103: 10  
**America** - 1: 3  
**American** - 117: 7, 117: 8  
**an** - 3: 6, 13: 8, 18: 12, 19: 8, 19: 25, 20: 9, 21: 4, 22: 11, 23: 7, 23: 20, 24: 11, 24: 19, 24: 20, 29: 9, 33: 25, 40: 3, 44: 1, 44: 20, 45: 8, 50: 8, 54: 8, 57: 3, 60: 21, 66: 8, 66: 23, 67: 25, 68: 13, 71: 8, 79: 9, 86: 5, 101: 17, 108: 10, 111: 15, 117: 7, 117: 8, 117: 25, 121: 8, 121: 11, 124: 25, 125: 1, 125: 4, 125: 25  
**and** - 1: 10, 1: 18, 3: 9, 3: 10, 3: 14, 3: 22, 4: 9, 5: 5, 7: 2, 9: 25, 11: 4, 11: 14, 11: 17, 11: 20, 11: 23, 12: 4, 12: 10, 12: 11, 12: 12, 13: 1, 13: 5, 14: 18, 15: 4, 16: 12, 16: 17, 16: 25, 17: 2, 17: 3, 17: 9, 17: 10, 17: 24, 18: 3, 18: 8, 18: 16, 18: 20, 18: 21, 18: 23, 19: 16, 19: 17, 19: 18, 19: 19, 19: 24, 20: 1, 20: 4, 21: 3, 21: 6, 21: 9, 21: 24, 22: 5, 22: 9, 22: 23, 23: 5, 23: 15, 23: 16, 24: 11, 24: 19, 24: 21, 24: 23, 26: 17, 26: 23, 27: 1, 27: 13, 28: 2, 29: 1, 29: 6, 29: 17, 29: 20, 30: 6, 31: 2, 31: 5, 32: 21, 35: 11, 35: 16, 36: 6, 36: 23, 37: 4, 39: 8, 39: 12, 39: 14, 40: 1, 40: 7, 40: 9, 40: 11, 40: 12, 41: 17, 41: 25, 43: 11, 43: 15, 45: 11, 49: 10, 49: 14, 50: 6, 50: 10, 53: 2, 54: 13, 57: 8, 57: 14, 57: 18, 57: 22, 58: 1, 58: 7, 58: 10, 59: 1, 60: 3, 60: 12, 62: 1, 62: 23, 64: 16, 65: 9, 66: 12, 67: 22, 68: 11, 68: 15, 69: 3, 69: 5, 70: 7, 70: 20, 70: 21, 71: 13, 71: 15, 71: 19, 72: 12, 72: 15, 72: 22, 72: 24, 73: 2, 73: 8, 75: 5, 76: 17, 76: 18, 77: 7, 78: 22, 79: 3, 81: 13, 81: 14, 83: 25, 85: 15, 85: 19, 85: 24, 86: 20, 87: 3, 87: 14, 89: 11, 89: 25, 90: 4, 90: 9, 90: 21, 94: 2, 94: 9, 96: 7, 96: 13, 96: 23, 99: 5, 100: 17, 101: 21, 102: 4, 102: 24, 105: 1, 105: 13, 106: 10, 110: 22, 111: 25, 112: 4, 112: 13, 113: 9, 113: 17, 116: 1, 116: 17, 117: 14, 118: 7, 118: 11, 120: 19, 121: 3, 121: 12, 122: 23, 123: 5, 123: 8, 123: 10, 123: 11, 123: 12, 123: 21, 123: 22, 124: 7, 124: 10, 124: 11, 124: 19, 125: 1, 126: 5  
**And** - 3: 13, 5: 13, 5: 15, 10: 22, 14: 20, 15: 3, 16: 14, 22: 8, 22: 17, 22: 20, 22: 23, 26: 9, 28: 12, 28: 18, 29: 7, 29: 20, 32: 14, 33: 1, 36: 10, 44: 10, 44: 13, 55: 11, 55: 18, 61: 7, 84: 6, 120: 15, 122: 22, 123: 9  
**Anderson** - 70: 1  
**anecdotal** - 18: 8, 18: 23  
**another** - 38: 21, 59: 23, 63: 4, 63: 17, 99: 11  
**Another** - 92: 17  
**answer** - 18: 6, 19: 20, 19: 24, 20: 2, 20: 9, 22: 3, 23: 19, 24: 15, 38: 12, 39: 12,

40: 1, 46: 14, 47: 9, 50: 4, 58: 12, 67: 11, 72: 7, 85: 22  
**answered** - 85: 25  
**answering** - 39: 9  
**answers** - 25: 17, 78: 17, 80: 4, 80: 8, 97: 14  
**Anthony** - 1: 21  
**Any** - 2: 19, 12: 17, 12: 21, 15: 21, 17: 13, 19: 3, 20: 17, 25: 3, 29: 23, 33: 13, 34: 17, 38: 14, 39: 18, 42: 2, 47: 11, 51: 24, 53: 4, 66: 18, 68: 17, 79: 14, 81: 4, 82: 19, 84: 8, 87: 1, 88: 23, 90: 24, 99: 7, 102: 20, 106: 14, 107: 9, 108: 17, 112: 16, 113: 19, 115: 1, 116: 23, 118: 24, 121: 20  
**any** - 10: 12, 13: 19, 15: 13, 17: 18, 21: 14, 25: 24, 28: 13, 40: 10, 40: 20, 46: 15, 49: 17, 50: 19, 51: 5, 67: 2, 71: 12, 77: 16, 77: 17, 78: 21, 80: 13, 86: 6, 86: 7, 86: 13, 88: 6, 89: 9, 93: 3, 102: 21, 106: 16, 106: 19, 110: 10  
**Anybody** - 54: 13  
**anybody** - 3: 5, 3: 6, 11: 12, 64: 18, 106: 7, 114: 23  
**anymore** - 50: 22  
**anyone** - 12: 12, 60: 9, 64: 22  
**anything** - 2: 11, 4: 6, 4: 16, 12: 5, 12: 11, 19: 12, 29: 18, 29: 21, 31: 9, 33: 23, 41: 23, 44: 24, 49: 16, 56: 17, 56: 22, 66: 3, 73: 17, 75: 21, 80: 10, 81: 1, 83: 3, 88: 18, 97: 20, 103: 4, 108: 12, 109: 2, 119: 8, 124: 6  
**Anything** - 14: 10, 15: 7, 27: 6, 61: 12, 106: 22, 119: 12, 122: 5  
**anyway** - 91: 15  
**apart** - 25: 25  
**apologize** - 4: 14, 5: 6, 51: 22, 107: 18, 117: 10  
**apparent** - 78: 3  
**appearance** - 45: 5, 45: 6, 76: 7, 76: 9, 76: 14  
**Appearances** - 1: 11  
**appeared** - 3: 15, 13: 4, 66: 20  
**application** - 125: 25  
**applications** - 76: 14  
**apply** - 56: 11, 71: 23  
**appointment** - 67: 25  
**appointments** - 68: 1, 75: 4  
**appreciate** - 11: 14, 46: 12  
**approval** - 99: 10  
**Approve** - 119: 17  
**approve** - 93: 24, 114: 13  
**Approved** - 67: 1, 103: 14, 112: 16  
**approved** - 40: 12, 42: 11, 52: 1, 67: 13, 69: 7, 79: 17, 81: 7, 81: 16, 82: 21, 84: 19, 89: 2, 91: 1, 99: 9, 103: 2, 106: 24, 107: 11, 108: 17, 110: 24, 111: 5, 113: 19, 117: 18, 122: 8  
**are** - 3: 6, 3: 16, 3: 17, 3: 18, 3: 23, 4: 3, 4: 20, 5: 7, 6: 8, 6: 10, 9: 25, 10: 9, 13: 21, 13: 22, 16: 3, 16: 5, 16: 23, 18: 9, 18: 21, 20: 14, 21: 21, 22: 14, 22: 17, 24: 25, 25: 8, 26: 6, 26: 11, 28: 11, 28: 21, 29: 1, 29: 9, 29: 20, 30: 15, 34: 24, 35: 5, 36: 5, 36: 6, 36: 10, 36: 11, 36: 15, 36: 17, 37: 24, 38: 2, 40: 7, 40: 18, 42: 5, 42: 17, 42: 18, 43: 12, 45: 16, 46: 2, 46: 3, 46: 4, 46: 22, 47: 10, 47: 12, 51: 3, 52: 9, 53: 22, 58: 2, 58: 3, 58: 18, 59: 6, 59: 13, 59: 15, 59: 21, 64: 7, 65: 13, 69: 13, 69: 15, 70: 15, 71: 14, 78: 8, 79: 22, 79: 23, 81: 10, 82: 25, 83: 1, 85: 1, 85: 3, 87: 17, 89: 14, 89: 22, 91: 7, 91: 9, 97: 10, 97: 11, 100: 7, 101: 11, 101: 12, 103: 24, 104: 10, 104: 20, 107: 5, 107: 20, 107: 21, 108: 25, 109: 13, 111: 9, 112: 23, 113: 25, 116: 2, 117: 22, 117: 23, 119: 25, 122: 8, 122: 14, 124: 5, 125: 20  
**Are** - 2: 11, 20: 3, 26: 8, 41: 9, 50: 18, 69: 1, 89: 16, 92: 1, 104: 3, 104: 7, 105: 16, 106: 16, 122: 16  
**area** - 25: 19, 30: 19, 40: 23, 40: 25,



42: 19, 42: 20, 46: 6, 51: 8, 53: 25, 54: 3, 59: 15  
**aren't** - 4: 7, 37: 25, 48: 11  
**around** - 64: 23, 78: 3  
**arrest** - 33: 25  
**arrested** - 26: 14, 31: 6, 33: 19, 33: 25, 116: 1, 116: 2  
**arresting** - 117: 15  
**arrived** - 107: 17  
**article** - 24: 19, 24: 20, 60: 21, 61: 4, 62: 7  
**articles** - 27: 25  
**as** - 2: 7, 4: 13, 4: 17, 5: 21, 12: 7, 13: 1, 15: 16, 17: 10, 18: 19, 20: 7, 20: 13, 21: 11, 23: 5, 23: 15, 24: 18, 39: 8, 39: 13, 39: 14, 42: 11, 45: 9, 52: 14, 55: 20, 55: 23, 56: 6, 63: 24, 64: 6, 68: 22, 70: 15, 71: 19, 75: 6, 80: 18, 81: 10, 83: 25, 86: 7, 87: 12, 115: 24, 123: 24, 125: 15  
**As** - 11: 2, 17: 10  
**aside** - 18: 15, 20: 3, 21: 9, 32: 15, 72: 9, 72: 14  
**ask** - 4: 6, 5: 2, 10: 2, 21: 10, 25: 17, 28: 19, 38: 23, 39: 2, 39: 5, 51: 13, 64: 16, 78: 16, 80: 4, 80: 7, 83: 6, 85: 11, 97: 13, 100: 9, 109: 2, 111: 11, 112: 25  
**asked** - 3: 9, 4: 4, 4: 9, 19: 19, 27: 23, 39: 14, 39: 23, 39: 25, 43: 11, 66: 24, 67: 3, 76: 14  
**asking** - 2: 4, 89: 12  
**assault** - 108: 11  
**assigned** - 75: 12  
**assist** - 2: 23  
**Assistant** - 1: 15, 121: 11  
**associate** - 90: 19  
**association** - 68: 3  
**assume** - 86: 14  
**assumed** - 80: 15  
**assuming** - 34: 23  
**Astoria** - 87: 20, 87: 23  
**at** - 4: 7, 11: 3, 11: 7, 11: 23, 13: 25, 19: 22, 20: 21, 31: 2, 32: 25, 33: 21, 37: 25, 41: 6, 41: 12, 46: 15, 50: 1, 53: 12, 58: 9, 62: 10, 63: 15, 67: 4, 67: 10, 73: 17, 73: 19, 73: 21, 75: 25, 76: 4, 104: 11, 105: 4, 111: 22, 121: 16, 123: 4, 123: 6, 126: 6  
**Atlantic** - 82: 5  
**attachment** - 84: 16  
**attending** - 101: 5  
**attention** - 3: 4, 3: 8, 61: 24  
**attorney** - 92: 9, 92: 11, 93: 15, 121: 8, 121: 12  
**Attorney** - 1: 13  
**attorneys** - 49: 17  
**Attorneys** - 1: 15  
**auditing** - 111: 14  
**aunt** - 112: 9  
**aunt-in-law's** - 112: 9  
**Authority** - 32: 21, 85: 19, 86: 23, 123: 10  
**authority** - 18: 20, 20: 24, 21: 5, 21: 7, 21: 9, 124: 13  
**Avenue** - 60: 2, 60: 3, 82: 5, 104: 6  
**average** - 72: 24  
**awaiting** - 50: 18  
**aware** - 19: 13, 43: 6, 57: 25, 78: 24  
**away** - 11: 25, 18: 18, 27: 19, 72: 22

## B

**B** - 1: 9  
**baby** - 113: 3  
**back** - 6: 11, 26: 12, 26: 16, 30: 6, 32: 9, 34: 21, 41: 12, 61: 20, 63: 14, 64: 20, 74: 6, 93: 2, 93: 8, 93: 9, 93: 19, 96: 24, 97: 22, 98: 1, 99: 14, 104: 9, 107: 17  
**background** - 60: 15, 65: 9  
**bad** - 17: 25, 41: 2, 96: 24, 104: 8, 104: 14, 105: 6, 110: 7, 123: 22  
**bail** - 100: 17

**bank** - 91: 20  
**Barry** - 18: 3  
**base** - 122: 25  
**baseball** - 106: 5, 106: 6  
**Based** - 21: 13  
**based** - 14: 19, 17: 24, 40: 10, 56: 4, 56: 5, 58: 17, 67: 12, 87: 10, 95: 11, 95: 12, 96: 2, 102: 5, 126: 1  
**basically** - 60: 18, 61: 18  
**basis** - 36: 24, 72: 13  
**Bay** - 81: 23  
**be** - 3: 15, 3: 19, 4: 7, 4: 12, 5: 20, 6: 1, 11: 17, 13: 8, 13: 12, 14: 5, 16: 25, 17: 9, 17: 11, 18: 19, 19: 23, 22: 12, 22: 20, 22: 24, 23: 15, 23: 25, 24: 2, 24: 9, 24: 10, 24: 11, 24: 12, 26: 23, 27: 21, 29: 16, 30: 8, 33: 25, 34: 3, 34: 7, 34: 9, 34: 23, 35: 10, 35: 24, 36: 3, 36: 5, 36: 8, 37: 8, 37: 9, 37: 10, 38: 9, 38: 17, 39: 12, 39: 22, 39: 23, 40: 7, 40: 11, 41: 25, 44: 10, 45: 2, 49: 13, 50: 6, 50: 15, 53: 15, 55: 9, 57: 14, 57: 17, 57: 18, 57: 22, 60: 11, 62: 12, 62: 17, 62: 23, 63: 7, 64: 5, 64: 11, 64: 13, 66: 6, 66: 8, 66: 25, 67: 2, 68: 15, 68: 16, 69: 3, 70: 8, 71: 18, 72: 15, 72: 20, 73: 3, 73: 11, 73: 14, 73: 23, 75: 3, 76: 3, 76: 4, 76: 10, 78: 22, 79: 1, 79: 8, 80: 3, 80: 14, 80: 23, 80: 25, 81: 14, 81: 16, 82: 13, 85: 22, 86: 6, 86: 22, 86: 24, 87: 3, 87: 14, 89: 3, 90: 21, 91: 11, 91: 12, 93: 22, 94: 18, 96: 2, 96: 6, 96: 8, 99: 5, 103: 14, 104: 18, 104: 24, 105: 13, 105: 21, 106: 9, 106: 10, 107: 7, 108: 18, 110: 22, 111: 1, 112: 4, 112: 13, 113: 17, 114: 3, 116: 17, 116: 21, 118: 17, 119: 6, 119: 8, 119: 22, 120: 17, 122: 18, 123: 16, 123: 19, 123: 24, 124: 9, 124: 16, 124: 17, 125: 11  
**Beach** - 12: 4, 12: 5, 41: 12  
**bear** - 28: 5  
**beard** - 45: 7  
**bearing** - 89: 9, 89: 10  
**beaten** - 111: 25  
**became** - 117: 7, 121: 12, 121: 13, 123: 7, 123: 8  
**because** - 2: 24, 4: 12, 11: 19, 20: 13, 23: 9, 23: 10, 24: 21, 27: 24, 31: 24, 33: 9, 35: 20, 36: 15, 36: 17, 41: 11, 49: 25, 55: 4, 56: 12, 60: 13, 64: 16, 65: 25, 71: 5, 72: 4, 75: 4, 82: 12, 93: 20, 94: 16, 105: 17, 116: 1, 116: 15, 123: 11, 124: 13  
**Because** - 51: 17, 72: 19, 96: 4, 96: 11, 98: 17  
**become** - 91: 1, 106: 24, 117: 8  
**becomes** - 67: 15  
**becoming** - 94: 17  
**been** - 9: 25, 11: 25, 21: 5, 26: 17, 26: 21, 31: 6, 45: 24, 47: 3, 57: 5, 58: 1, 71: 17, 97: 14, 99: 16, 99: 18, 99: 22, 105: 18, 105: 19, 109: 22, 110: 13, 110: 17, 111: 19, 112: 7, 122: 22, 123: 1, 124: 4  
**before** - 5: 2, 14: 5, 23: 22, 26: 16, 26: 21, 27: 16, 36: 5, 80: 14, 87: 6, 88: 8, 89: 7, 97: 23, 97: 25, 99: 5, 107: 23, 109: 2, 121: 12  
**Before** - 1: 9, 110: 1, 111: 21, 111: 22, 121: 13, 125: 25  
**beginning** - 39: 13, 43: 20, 96: 25  
**being** - 2: 21, 9: 25, 18: 19, 22: 4, 23: 9, 24: 3, 36: 11, 44: 6, 54: 16, 58: 25, 64: 15, 65: 9, 71: 9, 71: 13, 89: 11, 96: 19, 111: 2, 116: 25, 125: 5, 125: 18  
**believe** - 11: 21, 21: 13, 23: 5, 23: 6, 23: 10, 34: 23, 57: 17, 62: 9, 70: 15, 81: 10, 86: 12, 96: 17, 118: 9, 118: 18, 120: 23, 121: 25, 122: 1, 124: 19  
**believed** - 24: 1, 34: 1, 34: 2  
**believing** - 72: 1  
**Belle** - 85: 6  
**Bellmore** - 59: 18

**belong** - 110: 10  
**belonged** - 95: 25  
**belongs** - 43: 17  
**Benton** - 1: 12  
**best** - 23: 20, 37: 11, 37: 14, 37: 17, 37: 20, 37: 23, 37: 24, 38: 1, 38: 11, 39: 24, 47: 9, 55: 6, 66: 8, 70: 8, 70: 12, 70: 13, 72: 16, 72: 22  
**better** - 25: 15, 56: 15, 72: 5, 109: 8  
**beyond** - 22: 24, 36: 7, 36: 19, 44: 14, 55: 12, 62: 15, 66: 3, 71: 20, 80: 15, 80: 22, 93: 25, 94: 20, 95: 4, 105: 13, 114: 6, 114: 10, 117: 2, 119: 14, 125: 2  
**big** - 41: 3  
**billing** - 122: 23  
**bit** - 45: 8, 52: 11, 83: 6  
**bloody** - 73: 18  
**blows** - 46: 9  
**Board** - 86: 19, 87: 11  
**board** - 87: 11  
**boneheaded** - 3: 8  
**book** - 69: 16, 69: 20  
**bookkeeper** - 120: 13  
**bookkeeping** - 46: 21  
**born** - 95: 11  
**Both** - 121: 11  
**bottom** - 38: 21  
**box** - 3: 22, 4: 7, 4: 21, 5: 8, 5: 18, 13: 11, 27: 13, 69: 3, 107: 12  
**boy** - 19: 25, 21: 4, 40: 5  
**boyfriend** - 41: 13  
**Brady** - 2: 17  
**break** - 64: 3, 67: 22, 83: 4, 125: 25  
**breaking** - 64: 7, 75: 25  
**Briarcliff** - 25: 22  
**bridge** - 101: 25  
**Bring** - 3: 20, 28: 6, 64: 20, 78: 5  
**bring** - 3: 3, 3: 7, 60: 21, 65: 11, 77: 21  
**bringing** - 44: 1, 125: 6  
**British** - 123: 13  
**Broadway** - 1: 19  
**Bronx** - 82: 10, 92: 10  
**Brooklyn** - 1: 5, 1: 16, 1: 18, 1: 22, 30: 18, 42: 21  
**brother** - 10: 24, 11: 1, 11: 7, 98: 4, 112: 9, 120: 2, 120: 6, 120: 15, 120: 21, 121: 7, 121: 23  
**brother-in-law** - 10: 24, 11: 1, 11: 7  
**brothers** - 46: 24, 96: 12  
**brought** - 4: 20, 61: 24, 65: 10, 77: 3, 80: 14, 96: 24  
**Brown** - 122: 24  
**building** - 83: 14  
**bunch** - 86: 20  
**bundled** - 14: 2, 91: 12, 91: 14  
**burden** - 80: 21, 105: 22, 114: 5, 114: 10, 118: 22, 119: 14  
**burdensome** - 89: 11  
**Burlingame** - 1: 13, 3: 3, 3: 7, 4: 18, 5: 20, 6: 9, 6: 12, 13: 3, 13: 10, 15: 9, 15: 23, 17: 15, 17: 17, 25: 4, 27: 8, 27: 10, 27: 15, 27: 18, 27: 23, 29: 24, 34: 19, 38: 20, 42: 3, 53: 5, 64: 14, 66: 19, 75: 9, 75: 11, 75: 17, 75: 19, 79: 16, 81: 6, 81: 8, 84: 9, 84: 11, 84: 18, 84: 20, 87: 2, 87: 6, 87: 9, 88: 24, 103: 3, 106: 15, 106: 23, 115: 3, 119: 22, 122: 6  
**bus** - 30: 22, 42: 22, 81: 24, 101: 17, 101: 19, 101: 24  
**business** - 46: 23, 46: 25, 47: 6, 110: 2, 110: 7  
**businesses** - 85: 15  
**But** - 7: 2, 11: 10, 24: 10, 33: 22, 50: 11, 94: 8, 95: 3, 99: 20, 118: 3, 123: 24, 124: 21, 125: 4  
**but** - 17: 20, 18: 11, 21: 8, 24: 5, 31: 12, 31: 24, 31: 25, 33: 9, 33: 25, 35: 25, 38: 8, 39: 6, 43: 10, 43: 23, 55: 6, 55: 23, 56: 6, 56: 22, 57: 25, 58: 10, 60: 16, 67: 8, 69: 3, 71: 6, 71: 18, 84: 3, 89: 11, 94: 4, 94: 6,

|  |   |  |
|--|---|--|
| <p>98: 22, 99: 3, 99: 14, 100: 23, 102: 13, 102: 16, 105: 8, 106: 2, 116: 16, 117: 1, 117: 6, 117: 7, 117: 9, 125: 16</p> <p><b>by</b> - 1: 25, 2: 13, 3: 19, 10: 1, 16: 25, 18: 3, 19: 23, 22: 8, 29: 17, 30: 22, 36: 7, 42: 22, 46: 14, 51: 11, 54: 4, 62: 7, 67: 6, 69: 25, 71: 18, 72: 3, 72: 5, 78: 12, 81: 17, 81: 24, 86: 6, 87: 10, 94: 6, 94: 9, 101: 18, 102: 3, 116: 21, 117: 14</p> <p><b>By</b> - 1: 13, 59: 19, 87: 22</p> | <p>31: 14, 55: 6</p> <p><b>Certainly</b> - 2: 23</p> <p><b>certainty</b> - 24: 5</p> <p><b>certified</b> - 91: 16</p> <p><b>chair</b> - 86: 19</p> <p><b>chairman</b> - 87: 11</p> <p><b>challenge</b> - 39: 19</p> <p><b>challenges</b> - 69: 5</p> <p><b>chance</b> - 72: 5, 83: 3</p> <p><b>change</b> - 82: 6</p> <p><b>characterization</b> - 66: 22</p> <p><b>charge</b> - 24: 13, 35: 23, 36: 12, 36: 18, 36: 22, 44: 2, 44: 21, 86: 6, 103: 12, 105: 12, 125: 7</p> <p><b>charged</b> - 36: 11, 36: 12, 36: 15, 37: 3, 39: 21, 43: 22, 43: 23, 44: 1, 44: 5, 44: 6, 78: 17, 94: 17, 105: 18, 116: 25</p> <p><b>charges</b> - 27: 1, 36: 10, 67: 5, 67: 8, 106: 16, 106: 17, 120: 22, 120: 24, 120: 25</p> <p><b>Charles</b> - 1: 5</p> <p><b>checked</b> - 14: 20, 14: 22, 84: 15</p> <p><b>child</b> - 6: 23, 33: 25, 41: 11</p> <p><b>child-care</b> - 41: 11</p> <p><b>children</b> - 31: 2, 53: 14</p> <p><b>choosing</b> - 69: 2</p> <p><b>chosen</b> - 68: 10</p> <p><b>citizen</b> - 13: 9, 36: 2, 36: 25, 37: 2, 45: 8, 117: 7, 117: 8</p> <p><b>city</b> - 101: 18, 111: 23</p> <p><b>City</b> - 11: 4, 101: 22, 120: 10, 122: 24</p> <p><b>civic</b> - 103: 8, 110: 11</p> <p><b>civil</b> - 31: 6, 31: 18, 33: 17, 97: 14, 110: 17, 121: 10</p> <p><b>clarification</b> - 10: 2</p> <p><b>clarified</b> - 15: 2</p> <p><b>class</b> - 101: 1</p> <p><b>classes</b> - 50: 10</p> <p><b>clean</b> - 26: 17</p> <p><b>clear</b> - 4: 17, 77: 3, 119: 4</p> <p><b>clearly</b> - 22: 9, 22: 10, 67: 10</p> <p><b>Clerk</b> - 2: 6, 4: 2, 4: 4, 4: 9, 4: 24, 5: 25, 6: 10, 6: 14, 8: 8, 13: 13, 13: 15, 13: 16, 15: 18, 15: 24, 21: 17, 25: 6, 28: 7, 30: 5, 30: 11, 34: 21, 34: 23, 35: 1, 40: 14, 42: 10, 42: 14, 45: 18, 45: 23, 47: 14, 51: 1, 52: 5, 53: 20, 59: 9, 63: 25, 67: 14, 69: 9, 74: 9, 75: 10, 75: 14, 76: 2, 77: 17, 79: 19, 81: 18, 82: 23, 84: 24, 87: 15, 89: 6, 91: 5, 95: 17, 97: 4, 97: 6, 100: 5, 101: 9, 103: 19, 103: 21, 107: 2, 107: 14, 107: 16, 107: 18, 108: 23, 109: 11, 111: 7, 112: 21, 113: 23, 115: 8, 115: 14, 117: 16, 119: 21, 119: 23, 122: 11</p> <p><b>clerk</b> - 26: 5, 33: 6, 76: 23</p> <p><b>clerk's</b> - 77: 18</p> <p><b>clock</b> - 64: 9</p> <p><b>close</b> - 12: 4, 49: 6, 57: 7, 66: 9, 71: 9, 73: 18, 111: 24</p> <p><b>Close</b> - 49: 7</p> <p><b>clothes</b> - 25: 11</p> <p><b>club</b> - 111: 23</p> <p><b>coat</b> - 21: 24, 28: 16</p> <p><b>coding</b> - 122: 23</p> <p><b>cold</b> - 14: 3, 16: 7, 21: 25, 22: 1, 28: 13, 29: 4, 35: 8, 40: 21, 46: 9, 80: 3, 89: 16, 91: 12, 91: 14, 109: 17</p> <p><b>Cold</b> - 29: 5</p> <p><b>collar</b> - 50: 8, 50: 10</p> <p><b>collecting</b> - 57: 6</p> <p><b>College</b> - 25: 22, 48: 14, 48: 16</p> <p><b>college</b> - 48: 15, 48: 19, 49: 12</p> <p><b>come</b> - 6: 10, 30: 17, 46: 6, 48: 18, 53: 24, 75: 3, 77: 8, 77: 17, 96: 1, 108: 5</p> <p><b>Come</b> - 51: 11</p> <p><b>comes</b> - 41: 3, 89: 8</p> <p><b>coming</b> - 4: 3, 24: 18, 26: 12, 42: 8, 46: 12, 59: 15</p> <p><b>commercial</b> - 83: 14</p> <p><b>commit</b> - 18: 5, 120: 22</p> <p><b>committed</b> - 17: 3</p> | <p><b>community</b> - 26: 20, 86: 18</p> <p><b>Community</b> - 86: 19, 87: 11</p> <p><b>comparing</b> - 40: 3</p> <p><b>competency</b> - 39: 7</p> <p><b>competent</b> - 3: 1</p> <p><b>completely</b> - 3: 1</p> <p><b>complex</b> - 26: 25, 39: 14</p> <p><b>compromise</b> - 19: 18</p> <p><b>computer</b> - 37: 19, 37: 21</p> <p><b>Computer</b> - 25: 20</p> <p><b>concerned</b> - 12: 5</p> <p><b>concerning</b> - 24: 16, 76: 19</p> <p><b>condolences</b> - 11: 15</p> <p><b>conduct</b> - 116: 5</p> <p><b>Coney</b> - 89: 23</p> <p><b>conference</b> - 14: 1</p> <p><b>confident</b> - 39: 17</p> <p><b>confused</b> - 84: 21</p> <p><b>confusion</b> - 4: 19, 4: 20</p> <p><b>connection</b> - 65: 6, 73: 2, 86: 18, 96: 1</p> <p><b>consider</b> - 12: 25, 14: 18, 23: 20, 23: 21, 29: 7, 38: 5, 79: 2, 80: 25, 85: 23, 102: 5, 104: 25, 118: 12, 124: 9</p> <p><b>considered</b> - 16: 25, 86: 6, 116: 16, 116: 21</p> <p><b>conspiracy</b> - 79: 3, 85: 24, 105: 1, 120: 22, 124: 10</p> <p><b>Constitution</b> - 80: 19</p> <p><b>constitutional</b> - 114: 13, 118: 13, 119: 5</p> <p><b>consult</b> - 85: 16</p> <p><b>Continued</b> - 47: 16, 74: 11, 118: 25</p> <p><b>control</b> - 23: 15</p> <p><b>controlled</b> - 26: 15</p> <p><b>convicted</b> - 17: 24, 26: 18, 31: 8, 33: 22, 36: 8, 57: 18, 82: 13, 116: 3</p> <p><b>conviction</b> - 18: 2, 78: 22</p> <p><b>convictions</b> - 20: 1</p> <p><b>convince</b> - 95: 5, 95: 9</p> <p><b>Cooper</b> - 70: 1</p> <p><b>cooperating</b> - 3: 12, 14: 14, 15: 14, 16: 13, 17: 2, 17: 19, 17: 25, 21: 1, 21: 14, 102: 3, 102: 21</p> <p><b>cooperation</b> - 102: 12</p> <p><b>coordinate</b> - 85: 16</p> <p><b>coordinator</b> - 2: 3</p> <p><b>cop</b> - 82: 9, 123: 10</p> <p><b>copy</b> - 63: 17</p> <p><b>correct</b> - 10: 21, 14: 14, 14: 21, 16: 16, 16: 20, 16: 22, 18: 14, 19: 10, 38: 17, 54: 23, 72: 1, 104: 18, 118: 1</p> <p><b>Correct</b> - 29: 19, 55: 13, 75: 18, 118: 2, 125: 14</p> <p><b>correctional</b> - 29: 9</p> <p><b>correlates</b> - 5: 21</p> <p><b>Cosa</b> - 80: 11, 81: 11</p> <p><b>could</b> - 11: 24, 11: 25, 13: 5, 17: 11, 18: 17, 18: 19, 18: 25, 19: 15, 20: 1, 20: 24, 21: 8, 21: 14, 27: 15, 27: 19, 28: 1, 39: 23, 40: 5, 53: 15, 57: 24, 57: 25, 62: 23, 64: 11, 64: 13, 66: 6, 66: 24, 67: 23, 70: 10, 102: 24, 105: 9, 106: 2, 118: 9, 118: 14, 123: 24, 125: 16</p> <p><b>Could</b> - 37: 8, 37: 9, 37: 10, 40: 1, 50: 6, 73: 21, 79: 8, 87: 6, 106: 10, 115: 21, 116: 17</p> <p><b>couldn't</b> - 21: 5, 21: 7, 52: 16, 66: 21, 73: 10, 73: 19, 94: 25, 105: 3, 105: 8, 105: 9</p> <p><b>country</b> - 95: 12</p> <p><b>counts</b> - 77: 22</p> <p><b>County</b> - 51: 9, 52: 19, 59: 16</p> <p><b>couple</b> - 27: 15, 88: 9, 122: 22, 124: 19</p> <p><b>course</b> - 3: 14, 24: 9, 32: 14, 33: 18, 58: 9, 61: 3, 83: 23, 84: 7, 91: 11, 114: 21, 120: 7, 120: 20, 122: 18, 124: 1</p> <p><b>Court</b> - 1: 1, 1: 17, 1: 21, 2: 2, 2: 7, 2: 8, 2: 13, 2: 16, 3: 2, 3: 5, 3: 16, 3: 18, 3: 23, 4: 1, 4: 3, 4: 6, 4: 12, 4: 15, 4: 20, 4: 25, 5: 4, 5: 6, 5: 9, 5: 11, 5: 14, 5: 17, 5: 23, 7: 1,</p> |
|--|---|--|

9: 24, 10: 4, 10: 7, 10: 9, 10: 12, 10: 15,  
10: 18, 10: 22, 10: 24, 11: 9, 11: 14, 12: 1,  
12: 6, 12: 9, 12: 15, 12: 19, 12: 21, 12: 25,  
13: 8, 13: 12, 13: 14, 13: 21, 13: 24, 14: 2,  
14: 5, 14: 8, 14: 10, 14: 13, 14: 16, 14: 22,  
14: 24, 15: 3, 15: 7, 15: 11, 15: 13, 15: 16,  
15: 19, 15: 21, 16: 1, 16: 3, 16: 5, 16: 7,  
16: 9, 16: 11, 16: 17, 16: 21, 16: 23, 16: 24,  
17: 6, 17: 9, 17: 12, 17: 16, 17: 18, 17: 22,  
18: 7, 18: 11, 18: 15, 18: 22, 19: 2, 19: 6,  
19: 8, 19: 11, 19: 15, 19: 21, 20: 3, 20: 7,  
20: 11, 20: 14, 20: 17, 20: 19, 21: 10,  
21: 12, 21: 19, 21: 21, 21: 24, 22: 1, 22: 3,  
22: 17, 22: 20, 22: 23, 23: 2, 23: 14, 24: 6,  
24: 9, 24: 17, 24: 25, 25: 3, 25: 8, 25: 11,  
25: 14, 25: 21, 25: 24, 26: 3, 26: 6, 26: 8,  
26: 10, 26: 13, 26: 18, 26: 22, 26: 25, 27: 3,  
27: 6, 27: 9, 27: 12, 27: 17, 27: 18, 27: 22,  
28: 1, 28: 4, 28: 9, 28: 11, 28: 13, 28: 16,  
28: 18, 28: 23, 29: 1, 29: 4, 29: 6, 29: 9,  
29: 11, 29: 13, 29: 16, 29: 20, 29: 23, 30: 1,  
30: 13, 30: 15, 30: 17, 30: 19, 30: 22,  
30: 24, 31: 4, 31: 8, 31: 11, 31: 14, 31: 16,  
31: 18, 31: 20, 31: 22, 32: 2, 32: 5, 32: 8,  
32: 10, 32: 12, 32: 14, 32: 18, 32: 23, 33: 1,  
33: 5, 33: 11, 33: 13, 33: 15, 33: 18, 33: 22,  
34: 3, 34: 7, 34: 11, 34: 14, 34: 17, 34: 20,  
34: 22, 35: 3, 35: 5, 35: 7, 35: 10, 35: 13,  
35: 19, 35: 23, 36: 2, 36: 6, 36: 10, 36: 15,  
36: 17, 36: 22, 37: 2, 37: 8, 37: 10, 37: 12,  
37: 16, 37: 18, 37: 20, 37: 24, 38: 2, 38: 5,  
38: 9, 38: 12, 38: 14, 38: 16, 38: 19, 38: 23,  
39: 2, 39: 13, 39: 16, 39: 23, 39: 25, 40: 9,  
40: 16, 40: 18, 40: 20, 40: 23, 40: 25, 41: 3,  
41: 6, 41: 9, 41: 13, 41: 16, 41: 21, 41: 23,  
41: 25, 42: 2, 42: 5, 42: 8, 42: 11, 42: 15,  
42: 17, 42: 19, 42: 22, 42: 24, 43: 2, 43: 5,  
43: 8, 43: 14, 43: 19, 43: 22, 43: 25, 44: 5,  
44: 8, 44: 10, 44: 13, 44: 16, 44: 18, 44: 20,  
44: 23, 45: 2, 45: 10, 45: 14, 45: 16, 45: 21,  
45: 25, 46: 2, 46: 4, 46: 6, 46: 9, 46: 12,  
46: 18, 46: 22, 46: 25, 47: 3, 47: 6, 47: 8,  
47: 11, 47: 15, 48: 2, 48: 4, 48: 6, 48: 8,  
48: 10, 48: 13, 48: 15, 48: 18, 48: 21,  
48: 24, 49: 2, 49: 5, 49: 8, 49: 13, 49: 16,  
49: 21, 49: 23, 50: 1, 50: 4, 50: 6, 50: 11,  
50: 14, 50: 18, 50: 23, 51: 3, 51: 5, 51: 8,  
51: 11, 51: 13, 51: 17, 51: 20, 51: 23, 52: 1,  
52: 7, 52: 9, 52: 12, 52: 14, 52: 17, 52: 21,  
52: 24, 53: 1, 53: 4, 53: 8, 53: 11, 53: 14,  
53: 17, 53: 22, 53: 24, 54: 2, 54: 4, 54: 7,  
54: 9, 54: 11, 54: 13, 54: 16, 54: 21, 54: 23,  
55: 1, 55: 8, 55: 11, 55: 14, 55: 16, 55: 18,  
55: 20, 55: 25, 56: 3, 56: 7, 56: 9, 56: 11,  
56: 17, 56: 24, 57: 1, 57: 3, 57: 7, 57: 9,  
57: 13, 57: 19, 57: 22, 58: 3, 58: 5, 58: 12,  
58: 15, 58: 20, 58: 24, 59: 4, 59: 6, 59: 11,  
59: 13, 59: 15, 59: 17, 59: 19, 59: 21,  
59: 25, 60: 5, 60: 8, 60: 11, 60: 19, 60: 23,  
61: 1, 61: 3, 61: 7, 61: 9, 61: 12, 61: 15,  
61: 17, 61: 20, 61: 22, 62: 1, 62: 3, 62: 6,  
62: 11, 62: 14, 62: 17, 62: 19, 62: 21,  
62: 23, 63: 1, 63: 5, 63: 9, 63: 13, 63: 17,  
63: 20, 63: 23, 63: 25, 64: 2, 64: 5, 64: 8,  
64: 12, 64: 20, 64: 22, 65: 1, 65: 6, 65: 8,  
65: 11, 65: 16, 65: 19, 65: 24, 66: 3, 66: 6,  
66: 9, 66: 12, 66: 15, 66: 18, 67: 1, 67: 12,  
67: 15, 67: 17, 67: 21, 67: 25, 68: 4, 68: 7,  
68: 10, 68: 15, 68: 17, 68: 19, 68: 24, 69: 2,  
69: 11, 69: 13, 69: 15, 69: 18, 69: 20,  
69: 22, 69: 24, 70: 2, 70: 5, 70: 8, 70: 12,  
70: 15, 70: 19, 70: 24, 71: 1, 71: 3, 71: 6,  
71: 10, 71: 12, 71: 17, 71: 23, 71: 25, 72: 7,  
72: 12, 72: 15, 72: 17, 72: 19, 73: 1, 73: 6,  
73: 8, 73: 14, 73: 19, 73: 21, 73: 24, 74: 2,  
74: 5, 75: 2, 75: 8, 75: 12, 75: 16, 75: 18,  
75: 21, 76: 5, 76: 20, 76: 23, 77: 15, 78: 5,  
78: 8, 78: 10, 78: 12, 78: 14, 78: 16, 78: 19,  
78: 21, 79: 1, 79: 8, 79: 11, 79: 14, 79: 17,  
79: 21, 79: 23, 80: 1, 80: 3, 80: 7, 80: 10,

80: 13, 80: 18, 80: 21, 80: 25, 81: 4, 81: 7,  
81: 10, 81: 13, 81: 16, 81: 20, 81: 22,  
81: 24, 82: 1, 82: 3, 82: 6, 82: 8, 82: 12,  
82: 16, 82: 19, 82: 21, 82: 25, 83: 2, 83: 6,  
83: 9, 83: 11, 83: 13, 83: 15, 83: 19, 83: 22,  
83: 24, 84: 3, 84: 6, 84: 8, 84: 10, 84: 12,  
84: 14, 84: 19, 84: 23, 85: 1, 85: 3, 85: 5,  
85: 7, 85: 9, 85: 11, 85: 17, 85: 22, 86: 3,  
86: 5, 86: 9, 86: 13, 86: 17, 86: 22, 87: 1,  
87: 3, 87: 8, 87: 13, 87: 17, 87: 19, 87: 21,  
87: 23, 87: 25, 88: 2, 88: 5, 88: 8, 88: 11,  
88: 14, 88: 16, 88: 18, 88: 21, 88: 23,  
88: 25, 89: 2, 89: 10, 89: 14, 89: 16, 89: 18,  
89: 22, 89: 24, 90: 1, 90: 4, 90: 8, 90: 10,  
90: 13, 90: 15, 90: 17, 90: 21, 90: 24, 91: 1,  
91: 7, 91: 9, 91: 11, 91: 14, 91: 16, 91: 19,  
91: 22, 91: 24, 92: 1, 92: 3, 92: 5, 92: 8,  
92: 11, 92: 13, 92: 16, 92: 19, 92: 21,  
92: 23, 93: 3, 93: 5, 93: 7, 93: 9, 93: 12,  
93: 20, 93: 24, 94: 3, 94: 8, 94: 12, 94: 14,  
94: 16, 94: 22, 94: 25, 95: 3, 95: 6, 95: 9,  
95: 13, 95: 16, 95: 19, 95: 23, 96: 1, 96: 6,  
96: 10, 96: 15, 96: 20, 97: 1, 97: 9, 97: 11,  
97: 13, 97: 17, 97: 20, 97: 24, 98: 2, 98: 5,  
98: 7, 98: 9, 98: 12, 98: 14, 98: 16, 98: 19,  
98: 21, 99: 1, 99: 4, 99: 7, 99: 9, 99: 12,  
99: 16, 99: 18, 99: 20, 99: 23, 100: 2,  
100: 7, 100: 9, 100: 11, 100: 14, 100: 17,  
100: 20, 100: 24, 101: 2, 101: 4, 101: 6,  
101: 11, 101: 13, 101: 16, 101: 19,  
101: 24, 102: 2, 102: 9, 102: 15, 102: 18,  
102: 20, 102: 24, 103: 2, 103: 4, 103: 8,  
103: 11, 103: 14, 103: 24, 104: 1, 104: 3,  
104: 5, 104: 7, 104: 10, 104: 14, 104: 16,  
104: 21, 104: 24, 105: 11, 105: 16,  
105: 20, 105: 24, 106: 4, 106: 10, 106: 14,  
106: 16, 106: 19, 106: 22, 106: 24, 107: 4,  
107: 7, 107: 9, 107: 11, 107: 20, 107: 22,  
108: 1, 108: 3, 108: 5, 108: 8, 108: 12,  
108: 15, 108: 17, 108: 20, 108: 25, 109: 3,  
109: 7, 109: 13, 109: 15, 109: 18, 109: 20,  
109: 22, 109: 24, 110: 1, 110: 3, 110: 5,  
110: 7, 110: 9, 110: 13, 110: 15, 110: 17,  
110: 20, 110: 22, 110: 24, 111: 1, 111: 5,  
111: 9, 111: 11, 111: 13, 111: 17, 111: 19,  
111: 21, 111: 24, 112: 2, 112: 4, 112: 7,  
112: 11, 112: 13, 112: 16, 112: 20,  
112: 23, 112: 25, 113: 2, 113: 5, 113: 8,  
113: 12, 113: 15, 113: 17, 113: 19,  
113: 22, 113: 25, 114: 2, 114: 5, 114: 9,  
114: 13, 114: 16, 114: 19, 114: 22, 115: 1,  
115: 4, 115: 6, 115: 10, 115: 13, 115: 16,  
115: 18, 115: 21, 116: 3, 116: 6, 116: 8,  
116: 10, 116: 13, 116: 17, 116: 20,  
116: 23, 116: 25, 117: 4, 117: 10, 117: 13,  
117: 18, 117: 20, 117: 22, 117: 24, 118: 3,  
118: 6, 118: 10, 118: 16, 118: 19, 118: 22,  
118: 24, 119: 2, 119: 8, 119: 10, 119: 12,  
119: 14, 119: 17, 119: 25, 120: 2, 120: 5,  
120: 8, 120: 11, 120: 13, 120: 15, 120: 17,  
120: 21, 120: 25, 121: 2, 121: 5, 121: 7,  
121: 10, 121: 13, 121: 16, 121: 18,  
121: 20, 121: 23, 122: 3, 122: 5, 122: 8,  
122: 13, 122: 16, 122: 18, 123: 1, 123: 3,  
123: 14, 123: 16, 123: 19, 123: 24, 124: 3,  
124: 9, 124: 21, 124: 25, 125: 6, 125: 9,  
125: 14, 125: 19, 125: 23, 126: 3  
**court** - 10: 19, 10: 20, 20: 4, 22: 15,  
31: 20, 33: 8, 34: 4, 34: 8, 35: 15, 36: 24,  
37: 4, 53: 2, 57: 15, 58: 6, 61: 8, 63: 24,  
75: 4, 76: 13, 76: 18, 76: 20, 77: 2, 77: 7,  
79: 4, 80: 14, 85: 25, 89: 9, 92: 15, 97: 18,  
103: 7, 105: 2, 108: 1, 118: 8, 125: 7  
**Court's** - 3: 4, 3: 7, 20: 23, 21: 5, 36: 23,  
37: 5, 77: 23, 77: 24  
**court's** - 77: 14  
**courthouse** - 25: 16, 31: 21  
**Courthouse** - 1: 4  
**courtroom** - 25: 2, 25: 7, 25: 12, 27: 14,  
28: 8, 30: 4, 30: 12, 31: 24, 31: 25, 34: 16,

35: 2, 39: 1, 40: 15, 42: 9, 42: 16, 45: 17,  
45: 24, 46: 1, 64: 25, 65: 5, 67: 16, 97: 6,  
97: 23, 119: 20, 119: 24, 122: 10, 122: 12,  
125: 22  
**courts** - 96: 12, 96: 13, 96: 14  
**cousin** - 17: 23, 18: 4, 19: 8, 57: 16,  
92: 5, 123: 9, 123: 15, 124: 23  
**cousins** - 57: 8, 57: 11, 96: 13  
**coverage** - 58: 11  
**credibility** - 21: 3, 50: 16  
**crime** - 12: 7, 18: 4, 22: 5, 22: 11, 23: 5,  
23: 7, 23: 11, 23: 25, 24: 4, 35: 15, 35: 21,  
37: 3, 39: 21, 50: 8, 50: 10, 51: 15, 58: 25,  
60: 13, 61: 11, 70: 16, 72: 19, 81: 11,  
93: 21, 94: 17, 94: 24, 102: 11, 103: 12,  
111: 3, 115: 16, 117: 1, 124: 4  
**crimes** - 17: 3, 27: 1, 54: 23, 54: 25,  
55: 5, 57: 18, 79: 3, 85: 24, 105: 1, 124: 10  
**criminal** - 26: 14, 34: 1, 49: 11, 55: 23,  
72: 1, 92: 15, 100: 12, 121: 10, 121: 14  
**Criminal** - 31: 18, 31: 19, 88: 14, 110: 20  
**criminals** - 19: 11  
**crossed** - 49: 23, 102: 6  
**crowded** - 88: 2, 88: 3, 88: 4  
**curiosity** - 89: 8  
**Curtis** - 1: 19  
**cuts** - 16: 18  
**cutting** - 116: 13

## D

**Da** - 52: 21, 121: 12  
**Daily** - 62: 6, 62: 7, 96: 19  
**date** - 78: 1  
**daughter** - 100: 11  
**day** - 11: 22, 16: 7, 30: 24, 42: 7, 43: 11,  
75: 25, 98: 9, 98: 10, 98: 18, 101: 1,  
115: 25  
**days** - 101: 1  
**dead** - 73: 5, 73: 14, 90: 6  
**deal** - 7: 3, 16: 18, 72: 23, 104: 17,  
106: 12  
**dealing** - 39: 11  
**dealings** - 25: 24, 56: 23  
**dealt** - 104: 19  
**Deangelo** - 52: 22  
**death** - 71: 15, 71: 16, 72: 20, 72: 22,  
72: 24, 73: 2, 73: 10, 123: 11, 123: 21  
**decide** - 2: 13, 4: 16, 4: 17, 10: 19,  
12: 10, 13: 5, 18: 24, 22: 6, 22: 14, 23: 2,  
23: 15, 27: 4, 28: 2, 35: 10, 35: 16, 36: 23,  
37: 4, 37: 16, 43: 14, 45: 11, 50: 11, 53: 1,  
55: 2, 57: 14, 59: 1, 60: 12, 70: 19, 72: 12,  
83: 24, 84: 6, 96: 2, 118: 7, 120: 6  
**decided** - 29: 16, 56: 4, 73: 3  
**deciding** - 18: 22, 55: 2, 60: 6, 118: 4  
**decision** - 29: 13, 31: 11, 33: 11, 34: 5,  
43: 5, 43: 8, 52: 24, 92: 13, 97: 21, 100: 20,  
100: 23, 108: 13, 113: 15, 118: 12, 121: 5,  
121: 18, 122: 3  
**declared** - 117: 14  
**defendant** - 2: 11, 11: 10, 18: 12, 22: 4,  
22: 6, 22: 9, 22: 10, 22: 20, 23: 6, 24: 3,  
24: 11, 32: 2, 38: 16, 43: 17, 49: 18, 55: 8,  
58: 24, 59: 1, 60: 12, 60: 25, 61: 6, 62: 1,  
62: 11, 65: 1, 71: 17, 74: 6, 75: 22, 75: 23,  
76: 2, 76: 6, 76: 7, 104: 21, 105: 12,  
105: 21, 111: 2, 114: 2, 114: 10, 115: 19,  
116: 25, 118: 11, 119: 5, 125: 10  
**Defendant's** - 1: 6, 1: 17, 77: 4  
**defendant's** - 13: 7  
**defendants** - 32: 7  
**defense** - 49: 17, 76: 16, 121: 12  
**deferential** - 21: 5  
**definitely** - 57: 10, 109: 6  
**degree** - 26: 15, 26: 19  
**deliberate** - 114: 23  
**deliver** - 29: 1  
**demeanor** - 21: 13, 39: 16, 40: 10, 67: 6,  
67: 13

denied - 13: 8, 78: 5, 87: 13  
 Denied - 3: 2, 21: 12  
 Dennis - 84: 12, 84: 14, 95: 20, 95: 21,  
 96: 4, 96: 15  
 department - 52: 18, 93: 18, 113: 13,  
 115: 25  
 Department - 41: 12, 50: 19, 85: 20  
 depends - 94: 23  
 described - 73: 10, 86: 23  
 description - 73: 12  
 detail - 11: 5, 115: 22  
 detailed - 17: 1  
 details - 78: 25  
 determined - 19: 23  
 did - 10: 12, 15: 13, 28: 13, 40: 20, 43: 9,  
 51: 5, 51: 14, 83: 3, 84: 14, 108: 5  
 did - 18: 3, 18: 4, 18: 5, 25: 24, 30: 22,  
 33: 1, 35: 21, 44: 3, 44: 21, 46: 21, 49: 3,  
 51: 19, 57: 17, 60: 16, 60: 23, 61: 1, 65: 11,  
 67: 5, 71: 4, 73: 22, 78: 14, 81: 8, 85: 9,  
 89: 8, 91: 19, 93: 7, 96: 20, 104: 12, 120: 8,  
 121: 3, 121: 13, 121: 14, 123: 3, 123: 9  
 didn't - 4: 18, 11: 18, 11: 19, 13: 19,  
 22: 1, 33: 20, 39: 3, 39: 5, 40: 22, 45: 7,  
 46: 14, 82: 12, 90: 19, 97: 22, 98: 23,  
 109: 4, 116: 8, 118: 20  
 died - 123: 22  
 difference - 124: 17  
 different - 20: 22, 95: 12, 96: 18, 99: 4,  
 108: 19, 112: 15  
 difficult - 14: 18, 22: 5, 35: 18, 42: 25,  
 58: 25, 60: 11, 72: 23, 102: 4  
 difficulty - 16: 14, 39: 3, 39: 4, 39: 11,  
 40: 20, 71: 15, 71: 25, 73: 20  
 direct - 39: 6, 103: 11  
 direction - 67: 6  
 directions - 102: 16, 124: 11  
 disabled - 104: 7, 104: 8  
 disagree - 36: 2, 40: 9, 66: 22  
 discuss - 12: 12, 60: 9, 92: 16, 106: 7,  
 114: 22  
 discussed - 66: 20  
 dismisses - 77: 22  
 disobedience - 31: 6  
 disorder - 116: 4  
 Disorderly - 116: 6  
 disregard - 28: 2  
 distributor - 47: 1  
 District - 1: 1, 1: 10, 92: 9, 92: 11, 122: 2  
 district - 93: 15, 121: 24  
 division - 50: 8  
 dna - 18: 3, 18: 5  
 Do - 11: 17, 14: 16, 15: 10, 17: 4, 32: 2,  
 33: 6, 38: 9, 39: 2, 48: 6, 62: 23, 64: 22,  
 65: 8, 66: 6, 67: 22, 72: 17, 73: 4, 93: 24,  
 106: 19, 109: 1, 110: 10, 124: 25  
 do - 3: 21, 4: 13, 4: 16, 4: 18, 5: 15,  
 11: 11, 14: 13, 16: 18, 17: 15, 19: 11, 21: 2,  
 23: 1, 23: 14, 23: 20, 23: 24, 24: 14, 24: 24,  
 26: 3, 26: 10, 26: 13, 28: 23, 29: 3, 30: 6,  
 30: 17, 31: 24, 33: 2, 33: 15, 33: 16, 33: 17,  
 36: 12, 37: 13, 37: 18, 37: 19, 37: 21, 38: 2,  
 39: 13, 39: 24, 40: 23, 40: 25, 41: 9, 42: 19,  
 42: 20, 42: 22, 46: 6, 50: 16, 50: 22, 51: 8,  
 51: 17, 53: 24, 54: 4, 54: 20, 55: 5, 55: 7,  
 55: 10, 58: 2, 58: 8, 58: 15, 63: 6, 64: 10,  
 66: 5, 66: 7, 68: 12, 70: 8, 70: 12, 71: 15,  
 71: 16, 71: 20, 72: 8, 75: 21, 75: 25, 76: 5,  
 76: 6, 78: 10, 81: 12, 81: 22, 81: 24, 83: 7,  
 85: 5, 87: 19, 87: 21, 91: 19, 92: 8, 94: 9,  
 94: 10, 96: 15, 96: 20, 101: 13, 101: 16,  
 101: 24, 102: 2, 102: 11, 102: 15, 103: 12,  
 104: 16, 105: 19, 106: 2, 109: 18, 111: 13,  
 111: 17, 113: 10, 115: 10, 115: 13, 119: 2,  
 120: 8, 122: 20, 122: 21  
 doctor - 68: 1, 75: 4, 75: 5  
 documents - 77: 9, 78: 1  
 does - 38: 3, 49: 4, 54: 7, 55: 14, 82: 1,  
 87: 23, 92: 8, 101: 19, 101: 24, 118: 11  
 Does - 76: 23

doesn't - 36: 12, 36: 17, 37: 22, 44: 23,  
 67: 11, 89: 9, 89: 11, 93: 21, 94: 17, 119: 5,  
 119: 6  
 Doing - 59: 25  
 doing - 3: 10, 43: 12, 46: 22, 47: 3,  
 59: 21, 79: 22, 92: 1, 97: 10, 97: 11,  
 104: 12, 111: 19, 122: 22  
 don't - 2: 22, 2: 24, 3: 5, 3: 12, 3: 15,  
 20: 1, 23: 25, 31: 23, 32: 1, 32: 3, 32: 4,  
 32: 16, 36: 20, 40: 9, 41: 13, 43: 6, 43: 25,  
 45: 4, 45: 12, 45: 15, 52: 14, 52: 25, 53: 15,  
 54: 19, 55: 3, 55: 5, 56: 13, 57: 12, 58: 18,  
 58: 22, 60: 20, 63: 8, 63: 14, 63: 19, 65: 17,  
 65: 18, 67: 1, 68: 3, 68: 24, 69: 22, 71: 6,  
 73: 1, 73: 16, 73: 17, 75: 11, 76: 8, 76: 23,  
 77: 10, 77: 16, 79: 6, 85: 12, 86: 9, 92: 14,  
 92: 16, 93: 18, 96: 8, 99: 23, 100: 10,  
 105: 6, 105: 7, 106: 3, 116: 14, 119: 15,  
 121: 25, 124: 13, 124: 14, 124: 19, 124: 24  
 Don't - 4: 6, 63: 5  
 done - 58: 19, 60: 4  
 doubt - 22: 24, 36: 7, 36: 19, 44: 14,  
 55: 12, 62: 15, 71: 20, 80: 16, 80: 22, 94: 1,  
 94: 20, 95: 4, 105: 13, 114: 6, 114: 11,  
 117: 2, 119: 15, 125: 2  
 down - 3: 12, 11: 18, 30: 13, 49: 10,  
 60: 18, 79: 23, 95: 19, 96: 18, 97: 9,  
 101: 22, 105: 5, 107: 4, 122: 13  
 dressed - 109: 15  
 drove - 78: 13, 85: 8  
 Drugs - 88: 16  
 during - 83: 3, 126: 1  
 duty - 33: 4, 33: 9, 82: 9, 89: 8  
 dying - 73: 9

## E

E - 75: 1  
 each - 41: 18, 56: 20  
 Eagle - 19: 25, 21: 4, 40: 5, 40: 10  
 earlier - 40: 4, 76: 7, 103: 22  
 earliest - 75: 24  
 early - 64: 3  
 Early - 64: 4  
 east - 46: 8  
 East - 1: 15, 1: 22, 11: 20, 11: 22, 60: 2  
 Eastern - 1: 1, 122: 1  
 easy - 39: 8  
 eat - 83: 3  
 ed - 53: 6, 53: 9  
 effectively - 87: 10  
 effort - 19: 16  
 egocentric - 70: 3  
 Eight - 6: 16, 6: 18, 7: 18, 47: 12  
 eight - 89: 6  
 eighteen - 5: 17  
 Eighty - 6: 9  
 Eighty-one - 6: 9  
 either - 64: 9  
 elevator - 3: 9, 3: 13, 3: 15  
 else - 3: 6, 12: 13, 19: 12, 46: 15, 56: 3,  
 60: 9, 61: 7, 61: 9, 61: 12  
 else's - 125: 17  
 embezzlement - 78: 17  
 emergency - 6: 24, 45: 19  
 emotionally - 73: 9  
 emotions - 23: 15, 55: 18  
 employed - 28: 21, 46: 14, 109: 22,  
 123: 1  
 end - 11: 24, 46: 7  
 endeavor - 77: 10  
 enforcement - 49: 18, 50: 22, 51: 18  
 engaged - 86: 17  
 enough - 20: 3, 59: 23, 67: 12  
 entered - 45: 13  
 enters - 10: 6, 13: 20, 15: 25, 21: 18,  
 25: 7, 28: 8, 30: 12, 35: 2, 40: 15, 42: 16,  
 46: 1, 51: 2, 52: 6, 53: 21, 59: 10, 64: 21,  
 67: 16, 69: 10, 77: 4, 78: 7, 79: 20, 81: 19,  
 82: 24, 84: 25, 87: 16, 89: 13, 91: 6, 95: 18,

97: 8, 100: 6, 101: 10, 103: 23, 107: 3,  
 107: 19, 108: 24, 109: 12, 111: 8, 112: 22,  
 113: 24, 117: 19, 119: 24, 122: 12  
 entities - 70: 15  
 entitled - 36: 25, 37: 2, 104: 21, 104: 22,  
 125: 9  
 equivocal - 40: 7  
 Esq - 1: 17, 1: 19  
 ethnic - 60: 15  
 evaluate - 15: 3, 22: 12, 41: 18, 50: 15  
 evaluated - 50: 15  
 evaluating - 16: 14  
 evaluation - 39: 16  
 Evan - 1: 14  
 even - 32: 16, 36: 10, 103: 12, 118: 18,  
 125: 16  
 Even - 11: 15, 102: 11  
 evening - 2: 13  
 Ever - 108: 1  
 ever - 11: 12, 17: 18, 49: 6, 54: 13, 88: 8,  
 103: 4, 110: 13, 110: 17  
 Every - 37: 2, 54: 24, 93: 15  
 every - 12: 7, 19: 16, 31: 24, 36: 2,  
 36: 25, 67: 22  
 everybody - 2: 2, 36: 4, 65: 25, 104: 19,  
 125: 17  
 Everybody - 18: 8, 35: 23, 104: 22  
 everyone - 63: 23  
 everything - 35: 15, 36: 19, 50: 10,  
 56: 3, 62: 9, 62: 14, 65: 12, 70: 6, 74: 4,  
 74: 5, 76: 11, 94: 6, 124: 7  
 Everything - 9: 25, 124: 7  
 evidence - 12: 11, 16: 24, 16: 25,  
 18: 24, 22: 8, 23: 8, 24: 2, 29: 17, 32: 15,  
 35: 11, 36: 7, 37: 15, 37: 16, 39: 17, 43: 15,  
 45: 11, 50: 12, 55: 2, 56: 5, 70: 20, 73: 3,  
 79: 2, 83: 25, 84: 6, 85: 23, 86: 6, 86: 7,  
 86: 13, 94: 9, 96: 2, 104: 25, 106: 13,  
 113: 9, 118: 4, 120: 17, 120: 19, 124: 9,  
 125: 1  
 evidently - 34: 1  
 ex - 29: 9, 41: 13, 50: 8, 72: 2  
 ex-boyfriend - 41: 13  
 ex-correctional - 29: 9  
 ex-fbi - 50: 8  
 ex-husband - 72: 2  
 exact - 46: 19  
 exactly - 37: 5, 105: 6  
 exaggerate - 55: 14  
 example - 57: 3  
 except - 4: 17  
 exclusive - 62: 7  
 Excuse - 4: 15, 40: 24, 57: 2  
 excuse - 75: 6  
 excused - 20: 14, 24: 25, 27: 24, 45: 16,  
 45: 21, 53: 17, 59: 4, 59: 6, 73: 24, 75: 16,  
 87: 3, 95: 13, 97: 1, 100: 2, 101: 6, 109: 7,  
 125: 20  
 excusing - 126: 5  
 exercise - 20: 7  
 exhibit - 63: 24  
 Exhibit - 2: 7, 2: 8, 2: 16, 63: 25  
 exits - 53: 19, 59: 8, 63: 22, 66: 17,  
 68: 21, 74: 1, 79: 18, 82: 22, 84: 22, 87: 5,  
 89: 5, 91: 4, 95: 15, 97: 3, 100: 4, 101: 8,  
 103: 18, 107: 1, 107: 13, 108: 22, 109: 10,  
 111: 6, 112: 19, 113: 21, 117: 12  
 expect - 55: 20  
 experience - 15: 13, 17: 19, 18: 23,  
 39: 10, 51: 15, 102: 21  
 experts - 18: 4  
 explain - 11: 2, 15: 3, 23: 13, 69: 4,  
 94: 5, 94: 9, 102: 9  
 explained - 22: 8, 69: 3  
 explaining - 23: 24  
 explore - 39: 6  
 express - 101: 17, 101: 19  
 expressed - 64: 15  
 Expressway - 46: 8  
 extensively - 3: 11

|   |   |   |
|---|---|---|
| <p><b>extent</b> - 56: 22<br/> <b>extremely</b> - 3: 17<br/> <b>eyes</b> - 73: 18, 105: 6</p> | <p><b>first</b> - 3: 20, 6: 1, 9: 24, 26: 20, 83: 20, 101: 1<br/> <b>five</b> - 11: 2, 18: 2, 18: 4, 39: 25, 46: 17, 47: 4, 74: 7, 82: 2, 123: 23<br/> <b>Five</b> - 4: 24, 6: 6, 6: 15, 9: 14, 34: 12<br/> <b>flat</b> - 40: 4<br/> <b>Flatbush</b> - 60: 2<br/> <b>flip</b> - 116: 11<br/> <b>Floor</b> - 1: 19<br/> <b>floor</b> - 3: 14<br/> <b>Florida</b> - 83: 19, 113: 3<br/> <b>follow</b> - 12: 10, 15: 4, 17: 6, 17: 7, 18: 16, 18: 17, 18: 20, 19: 19, 20: 23, 20: 24, 21: 7, 21: 8, 22: 17, 27: 3, 36: 23, 37: 5, 37: 6, 40: 5, 44: 18, 45: 2, 45: 3, 60: 5, 60: 8, 62: 21, 64: 14, 67: 3, 79: 12, 81: 1, 82: 16, 84: 4, 86: 3, 86: 7, 86: 14, 88: 21, 102: 16, 102: 25, 105: 3, 105: 10, 106: 8, 108: 15, 114: 16, 114: 19, 114: 24, 116: 20, 118: 3, 118: 10, 119: 10, 120: 19<br/> <b>follow-up</b> - 64: 14, 67: 3<br/> <b>followed</b> - 21: 6, 54: 21, 82: 8, 83: 15, 113: 2<br/> <b>following</b> - 93: 19<br/> <b>food</b> - 110: 4<br/> <b>For</b> - 1: 12, 1: 17, 60: 17, 66: 19, 98: 5, 109: 20, 109: 23, 116: 13<br/> <b>for</b> - 2: 11, 2: 23, 3: 1, 4: 6, 4: 25, 5: 6, 11: 3, 11: 4, 12: 19, 12: 21, 13: 4, 13: 13, 13: 18, 14: 18, 15: 21, 16: 7, 18: 4, 18: 11, 19: 14, 20: 21, 22: 5, 26: 1, 26: 14, 26: 17, 30: 8, 31: 2, 31: 6, 32: 19, 34: 2, 39: 19, 40: 4, 40: 6, 41: 13, 42: 8, 47: 9, 50: 21, 56: 15, 57: 12, 59: 1, 59: 21, 60: 11, 63: 24, 69: 6, 72: 23, 74: 2, 75: 4, 75: 22, 75: 24, 76: 11, 76: 14, 76: 15, 84: 17, 85: 17, 87: 9, 89: 18, 91: 19, 92: 3, 92: 5, 92: 25, 93: 1, 93: 11, 99: 13, 99: 15, 99: 22, 102: 4, 108: 20, 109: 6, 109: 15, 120: 6, 120: 9, 122: 22, 123: 6, 123: 13, 124: 19, 125: 19<br/> <b>forgot</b> - 98: 22, 100: 25<br/> <b>form</b> - 55: 6<br/> <b>former</b> - 18: 13, 72: 9<br/> <b>Former</b> - 72: 11, 72: 12<br/> <b>forth</b> - 39: 15<br/> <b>fortunate</b> - 59: 23<br/> <b>forward</b> - 54: 16<br/> <b>Forward</b> - 48: 9<br/> <b>found</b> - 22: 24, 62: 17, 80: 23, 112: 10, 112: 11, 116: 1, 119: 22, 121: 3<br/> <b>Four</b> - 6: 5, 6: 14, 6: 21, 30: 1, 42: 14<br/> <b>four</b> - 21: 6, 39: 25, 100: 1<br/> <b>franchise</b> - 47: 2<br/> <b>Franklin</b> - 51: 9<br/> <b>frankly</b> - 21: 2<br/> <b>fraud</b> - 120: 22<br/> <b>Freeport</b> - 41: 1, 41: 4<br/> <b>frequent</b> - 13: 7<br/> <b>Friday</b> - 4: 9, 24: 18, 68: 1<br/> <b>friend</b> - 49: 6, 49: 7, 72: 22, 98: 3, 111: 24<br/> <b>friends</b> - 73: 9, 90: 4, 121: 20, 124: 4<br/> <b>frightened</b> - 96: 24<br/> <b>From</b> - 57: 5, 69: 18, 100: 19, 101: 3<br/> <b>from</b> - 2: 22, 10: 20, 11: 20, 11: 22, 11: 25, 13: 16, 23: 4, 23: 6, 23: 17, 25: 25, 27: 19, 30: 17, 39: 10, 41: 11, 43: 2, 46: 6, 53: 24, 59: 15, 69: 16, 71: 13, 87: 23, 89: 22, 96: 20, 96: 23, 98: 3, 118: 7, 122: 25<br/> <b>front</b> - 43: 11<br/> <b>full</b> - 28: 21, 66: 24<br/> <b>full-time</b> - 28: 21<br/> <b>fully</b> - 78: 24<br/> <b>fumble</b> - 39: 9<br/> <b>further</b> - 15: 7, 19: 3, 27: 6, 29: 23, 42: 2, 47: 11, 51: 24, 53: 4, 68: 17, 79: 14, 84: 8, 87: 1, 88: 23, 99: 7, 102: 20, 106: 22, 108: 17, 112: 16, 113: 19, 115: 1, 116: 23, 118: 24, 119: 12, 122: 5</p> | <p><b>G</b></p> <p><b>Gambino</b> - 43: 3, 43: 9, 43: 21, 43: 24, 44: 3, 44: 7, 80: 10<br/> <b>gang</b> - 56: 20<br/> <b>Garden</b> - 122: 24<br/> <b>Gardens</b> - 30: 21, 54: 3<br/> <b>gave</b> - 45: 5<br/> <b>Ged</b> - 104: 13<br/> <b>Gelb</b> - 58: 7, 62: 1<br/> <b>general</b> - 42: 19, 51: 8, 53: 25, 76: 4<br/> <b>generally</b> - 30: 19, 38: 3<br/> <b>generation</b> - 67: 19<br/> <b>gentleman</b> - 43: 17, 64: 24, 65: 3<br/> <b>gentleman's</b> - 96: 22<br/> <b>gentlemen</b> - 122: 15<br/> <b>Georgia</b> - 100: 12<br/> <b>Get</b> - 54: 9<br/> <b>get</b> - 11: 16, 29: 4, 30: 22, 42: 22, 54: 4, 54: 13, 54: 17, 58: 18, 59: 23, 63: 17, 66: 9, 68: 10, 69: 4, 72: 3, 72: 5, 73: 4, 74: 6, 75: 21, 77: 10, 81: 24, 83: 3, 85: 7, 87: 21, 93: 19, 98: 19, 101: 16, 101: 22, 102: 15, 104: 13, 109: 1<br/> <b>getting</b> - 10: 12, 26: 8, 40: 20, 51: 5, 67: 10, 75: 23, 76: 6<br/> <b>give</b> - 11: 15, 17: 1, 19: 24, 21: 14, 38: 12, 40: 1, 54: 13, 54: 19, 70: 12, 74: 6, 93: 2, 118: 11<br/> <b>Give</b> - 57: 3<br/> <b>given</b> - 77: 18<br/> <b>glad</b> - 15: 1, 31: 14, 65: 11<br/> <b>glasses</b> - 105: 5, 105: 7<br/> <b>Gloria</b> - 69: 19<br/> <b>go</b> - 3: 21, 29: 1, 30: 6, 48: 19, 67: 11, 68: 20, 68: 22, 89: 20, 93: 17, 93: 18, 97: 22, 101: 24, 116: 8, 119: 3, 124: 18, 125: 16<br/> <b>goals</b> - 48: 11<br/> <b>God</b> - 10: 17, 60: 16<br/> <b>godfather</b> - 90: 9, 90: 12<br/> <b>going</b> - 3: 18, 6: 1, 7: 2, 10: 19, 19: 24, 28: 19, 38: 23, 50: 21, 63: 6, 63: 13, 64: 2, 74: 2, 80: 25, 83: 6, 100: 9, 104: 12, 104: 18, 106: 5, 111: 11, 112: 25, 113: 9, 119: 3<br/> <b>Goldman</b> - 76: 17, 76: 18, 77: 1, 77: 8, 77: 11<br/> <b>gone</b> - 55: 5, 75: 17<br/> <b>good</b> - 16: 9, 16: 11, 37: 10, 37: 25, 42: 7, 55: 25, 59: 14, 68: 14, 70: 7, 89: 15, 103: 16, 104: 20, 110: 7, 110: 8, 123: 18, 123: 19<br/> <b>Good</b> - 2: 2, 10: 7, 10: 8, 13: 21, 13: 22, 16: 1, 16: 2, 16: 4, 16: 6, 17: 12, 21: 21, 25: 8, 26: 22, 28: 9, 28: 10, 30: 13, 30: 16, 35: 3, 35: 4, 35: 6, 40: 16, 42: 17, 42: 18, 46: 2, 46: 3, 52: 7, 52: 8, 53: 22, 53: 24, 59: 11, 59: 12, 67: 17, 69: 11, 69: 12, 69: 14, 78: 8, 78: 9, 79: 25, 83: 2, 97: 12, 100: 9, 109: 14, 110: 9, 111: 10<br/> <b>Gosh</b> - 40: 17<br/> <b>got</b> - 11: 6, 18: 2, 26: 16, 26: 20, 45: 6, 84: 20, 93: 8, 93: 9, 96: 15, 98: 18, 98: 20, 99: 10<br/> <b>Got</b> - 5: 16<br/> <b>gotten</b> - 54: 19<br/> <b>Gotti</b> - 32: 12<br/> <b>Gotti's</b> - 54: 21, 58: 7<br/> <b>Government</b> - 1: 12, 29: 7<br/> <b>government</b> - 2: 9, 2: 17, 2: 22, 13: 17, 21: 6, 22: 23, 25: 25, 32: 20, 36: 18, 44: 13, 44: 21, 55: 11, 62: 14, 71: 18, 71: 19, 77: 2, 80: 21, 92: 6, 93: 25, 94: 19, 95: 8, 105: 12, 105: 21, 106: 20, 114: 5, 114: 9, 117: 1, 119: 15, 125: 1<br/> <b>government's</b> - 77: 13<br/> <b>graduate</b> - 25: 19<br/> <b>graduated</b> - 48: 20, 48: 22</p> |
|---|---|---|

**grand** - 92: 20, 110: 13  
**Grand** - 92: 21  
**grandparents** - 60: 16  
**graphic** - 73: 12  
**gratified** - 33: 23  
**great** - 80: 1  
**Great** - 51: 4, 85: 4  
**greater** - 115: 21  
**Greenwich** - 101: 21  
**grew** - 56: 13, 56: 18  
**ground** - 23: 2  
**group** - 56: 14, 95: 2, 95: 4  
**growing** - 56: 19, 95: 11  
**gruesome** - 54: 23, 54: 25  
**Gruuman** - 59: 23  
**guess** - 18: 25, 19: 15, 55: 4, 56: 15,  
 56: 23, 58: 7, 66: 2, 70: 10, 71: 15  
**guilt** - 44: 13  
**guilty** - 14: 19, 16: 17, 22: 6, 22: 7,  
 22: 24, 22: 25, 36: 5, 36: 7, 36: 12, 36: 18,  
 39: 22, 44: 23, 45: 1, 45: 5, 45: 7, 55: 12,  
 58: 13, 58: 21, 59: 2, 60: 13, 62: 17, 71: 20,  
 72: 4, 80: 15, 80: 22, 93: 21, 93: 25, 94: 19,  
 102: 5, 105: 12, 108: 5, 108: 6, 108: 7,  
 113: 7, 114: 6, 114: 10, 121: 3, 125: 5,  
 125: 18  
**gun** - 82: 12  
**gunpoint** - 121: 16  
**Guns** - 98: 6  
**guns** - 99: 3  
**gut** - 45: 6  
**guy** - 21: 4, 65: 19, 66: 23, 93: 16,  
 93: 18, 112: 10  
**guy's** - 45: 7

## H

**had** - 4: 11, 10: 24, 13: 6, 17: 18, 17: 25,  
 19: 11, 26: 20, 27: 23, 31: 6, 32: 19, 41: 10,  
 41: 11, 45: 7, 58: 9, 75: 4, 76: 16, 76: 25,  
 77: 2, 77: 3, 77: 6, 77: 19, 77: 21, 90: 4,  
 105: 4, 111: 24, 117: 13, 123: 11, 124: 18  
**half** - 60: 3, 67: 22, 74: 2, 120: 2, 120: 6  
**half-brother** - 120: 2, 120: 6  
**hall** - 63: 20  
**hallway** - 65: 3  
**hand** - 15: 10, 15: 11  
**handing** - 61: 19, 63: 23, 81: 9, 84: 9,  
 88: 24, 103: 3, 106: 15, 110: 25  
**handle** - 77: 16  
**handyman** - 99: 13  
**hangouts** - 13: 7  
**happened** - 10: 25, 11: 15, 11: 24,  
 45: 22, 58: 4, 98: 25, 115: 22, 121: 2  
**happens** - 63: 3, 67: 20  
**happy** - 93: 12  
**hard** - 11: 16, 23: 18, 94: 12  
**has** - 9: 25, 11: 11, 18: 8, 36: 5, 36: 18,  
 44: 13, 45: 18, 55: 11, 62: 14, 64: 15,  
 71: 17, 75: 5, 76: 13, 80: 21, 89: 10, 93: 2,  
 93: 25, 95: 5, 95: 9, 96: 13, 96: 15, 105: 12,  
 106: 1, 107: 16, 112: 7, 114: 5, 114: 9,  
 117: 1, 118: 22, 119: 5, 125: 1, 126: 4  
**Has** - 63: 23  
**Have** - 17: 18, 41: 23, 42: 6, 49: 16,  
 80: 10, 88: 8, 99: 18, 103: 4, 110: 13,  
 110: 17, 124: 3  
**have** - 2: 3, 2: 25, 4: 7, 4: 12, 5: 17, 5: 20,  
 6: 8, 10: 12, 10: 16, 11: 25, 12: 11, 13: 1,  
 13: 19, 14: 13, 14: 16, 14: 25, 15: 13,  
 16: 14, 17: 1, 17: 15, 18: 12, 19: 17, 19: 25,  
 20: 5, 20: 10, 20: 11, 20: 12, 20: 22, 21: 5,  
 21: 8, 21: 24, 23: 7, 23: 8, 23: 9, 23: 22,  
 25: 24, 26: 17, 28: 13, 28: 16, 33: 3, 33: 6,  
 35: 7, 35: 13, 36: 23, 39: 3, 39: 11, 40: 20,  
 41: 17, 43: 9, 43: 14, 45: 23, 47: 3, 47: 9,  
 49: 5, 50: 11, 51: 5, 51: 14, 52: 10, 52: 13,  
 52: 14, 55: 5, 55: 7, 55: 22, 56: 21, 58: 1,  
 60: 3, 61: 15, 61: 17, 64: 14, 65: 11, 67: 12,  
 67: 25, 68: 23, 68: 24, 69: 5, 69: 6, 70: 5,

71: 8, 71: 12, 71: 15, 71: 16, 71: 25, 72: 5,  
 72: 21, 72: 24, 73: 2, 73: 4, 73: 8, 73: 20,  
 75: 2, 75: 22, 77: 11, 77: 15, 77: 25, 81: 8,  
 82: 6, 82: 12, 83: 3, 84: 10, 86: 9, 86: 17,  
 86: 23, 89: 9, 92: 5, 93: 14, 93: 16, 93: 17,  
 94: 5, 94: 6, 95: 3, 95: 10, 98: 20, 98: 23,  
 101: 1, 102: 2, 102: 21, 103: 6, 103: 16,  
 103: 21, 104: 12, 104: 14, 105: 6, 105: 9,  
 106: 19, 109: 5, 109: 22, 111: 19, 113: 9,  
 117: 25, 119: 2, 119: 21, 120: 2, 122: 25,  
 123: 1, 123: 9, 123: 14, 123: 19, 123: 20,  
 124: 13, 124: 17, 125: 25  
**Haven** - 104: 6  
**haven't** - 41: 24, 49: 21, 58: 18, 71: 10,  
 105: 19  
**having** - 13: 2, 77: 8  
**Hawaii** - 33: 10  
**he** - 3: 9, 6: 23, 6: 24, 11: 3, 11: 6, 13: 5,  
 13: 11, 18: 3, 18: 5, 21: 7, 21: 8, 21: 14,  
 22: 24, 31: 6, 32: 21, 33: 22, 34: 1, 34: 2,  
 37: 2, 38: 3, 39: 17, 39: 21, 39: 23, 40: 7,  
 43: 22, 43: 24, 45: 5, 45: 6, 59: 2, 64: 11,  
 64: 13, 64: 15, 64: 16, 64: 17, 64: 18,  
 66: 20, 66: 24, 67: 2, 67: 5, 67: 7, 67: 9,  
 67: 11, 71: 18, 71: 20, 76: 8, 76: 10, 76: 18,  
 76: 21, 77: 2, 77: 3, 78: 19, 80: 22, 82: 12,  
 82: 13, 87: 10, 87: 11, 89: 11, 92: 8, 93: 1,  
 94: 18, 95: 3, 95: 5, 116: 2, 116: 3, 117: 7,  
 117: 8, 118: 19, 119: 5, 119: 6, 121: 8,  
 121: 12, 121: 13, 121: 14, 122: 1, 123: 7,  
 123: 11, 123: 12  
**He** - 3: 10, 11: 3, 11: 4, 13: 4, 13: 8,  
 13: 12, 18: 2, 19: 11, 21: 4, 21: 7, 31: 8,  
 39: 3, 39: 9, 39: 10, 39: 24, 43: 23, 45: 7,  
 45: 8, 52: 19, 57: 17, 61: 10, 64: 11, 64: 13,  
 64: 14, 66: 19, 66: 25, 76: 18, 77: 2, 77: 13,  
 93: 1, 93: 11, 93: 18, 95: 24, 96: 13, 98: 9,  
 116: 8, 117: 7, 118: 22, 119: 8, 121: 3,  
 121: 11, 123: 4, 123: 5, 123: 8, 123: 9,  
 123: 15  
**He's** - 13: 14, 39: 20, 40: 12, 43: 25,  
 44: 5, 52: 20, 67: 13, 76: 10, 84: 23, 94: 18  
**he's** - 40: 12, 44: 10, 57: 12, 58: 12,  
 58: 20, 60: 13, 62: 17, 67: 1, 72: 19, 80: 15,  
 87: 10, 105: 13  
**head** - 61: 4, 61: 5, 93: 17  
**heading** - 3: 14  
**Headline** - 61: 22  
**headline** - 24: 22  
**hear** - 10: 19, 22: 15, 23: 16, 35: 16,  
 36: 24, 37: 15, 53: 1, 57: 14, 70: 20, 73: 10,  
 81: 1, 112: 2, 126: 2  
**heard** - 32: 15, 35: 14, 41: 23, 49: 16,  
 56: 19, 88: 18, 98: 24, 103: 6  
**hearing** - 19: 24  
**heart** - 109: 6  
**heavy** - 41: 3  
**Hello** - 79: 21, 81: 20, 81: 21, 85: 1,  
 85: 2, 87: 17, 91: 7, 91: 8, 100: 7, 103: 24,  
 107: 4, 108: 25, 109: 13, 111: 9, 112: 23,  
 113: 25, 122: 15  
**help** - 26: 8, 125: 20  
**her** - 75: 5, 75: 6, 92: 16, 115: 13, 126: 5  
**here** - 5: 1, 6: 24, 10: 12, 21: 19, 23: 16,  
 24: 1, 26: 23, 28: 20, 30: 22, 31: 20, 32: 23,  
 34: 8, 35: 16, 38: 10, 40: 20, 42: 22, 43: 5,  
 48: 23, 50: 12, 52: 24, 54: 4, 56: 14, 64: 24,  
 69: 17, 69: 18, 70: 20, 74: 4, 74: 5, 74: 6,  
 76: 2, 81: 24, 85: 7, 87: 21, 92: 13, 95: 11,  
 97: 14, 101: 16, 104: 24, 108: 13, 115: 10,  
 117: 16, 121: 5  
**Here** - 88: 19, 110: 25, 115: 14  
**herself** - 75: 4  
**hesitancy** - 64: 15  
**hesitant** - 13: 4, 39: 8  
**Hi** - 101: 12  
**hiding** - 119: 8  
**high** - 24: 10, 56: 6  
**him** - 11: 5, 13: 13, 22: 24, 39: 23,  
 43: 11, 55: 11, 64: 17, 64: 20, 65: 4, 66: 24,

67: 3, 67: 4, 67: 11, 71: 20, 72: 3, 72: 6,  
 74: 6, 77: 3, 77: 20, 80: 22, 90: 19, 93: 11,  
 94: 19, 114: 6, 116: 1, 117: 10, 118: 15,  
 118: 18, 125: 18  
**his** - 6: 23, 11: 6, 18: 3, 21: 9, 21: 13,  
 31: 23, 39: 6, 39: 9, 39: 16, 40: 10, 45: 5,  
 52: 21, 66: 20, 67: 6, 67: 12, 76: 7, 76: 8,  
 76: 17, 87: 12, 96: 25, 123: 10  
**His** - 45: 4, 96: 1, 96: 12  
**hit** - 11: 5, 58: 8, 123: 23  
**Hmm** - 43: 4, 124: 2  
**Hockey** - 48: 2  
**hockey** - 48: 5  
**hold** - 25: 15  
**home** - 48: 22, 89: 21  
**homicide** - 112: 8, 124: 22  
**honest** - 18: 19, 23: 20, 63: 7, 104: 18  
**honestly** - 55: 3  
**Honor** - 2: 6, 4: 2, 12: 22, 12: 23, 13: 13,  
 15: 8, 15: 9, 15: 18, 15: 22, 15: 23, 17: 14,  
 17: 17, 19: 1, 19: 4, 25: 4, 25: 5, 27: 7,  
 27: 8, 27: 10, 27: 11, 27: 23, 29: 24, 29: 25,  
 34: 18, 34: 19, 38: 15, 38: 20, 38: 22, 42: 3,  
 42: 4, 42: 10, 67: 7, 67: 10, 74: 9, 106: 23,  
 115: 14, 122: 6, 122: 7, 124: 12  
**Honorable** - 1: 9  
**hope** - 109: 7  
**hoping** - 47: 9  
**horrible** - 23: 11  
**hospital** - 26: 2, 26: 6  
**hour** - 54: 8, 67: 22, 74: 2, 88: 2, 101: 2  
**house** - 43: 11, 98: 8  
**Housing** - 11: 4  
**How** - 4: 23, 6: 8, 13: 21, 13: 22, 16: 3,  
 16: 5, 21: 21, 23: 14, 25: 8, 28: 11, 30: 15,  
 30: 22, 35: 5, 37: 12, 40: 18, 42: 17, 42: 18,  
 42: 22, 46: 2, 46: 4, 47: 3, 47: 6, 48: 18,  
 51: 3, 52: 9, 53: 22, 54: 4, 54: 7, 57: 7,  
 57: 9, 59: 13, 66: 9, 69: 13, 78: 8, 79: 22,  
 79: 23, 81: 24, 82: 1, 82: 25, 85: 1, 85: 3,  
 87: 17, 87: 21, 87: 23, 89: 14, 91: 7, 91: 9,  
 93: 7, 95: 1, 95: 23, 97: 10, 97: 11, 100: 7,  
 101: 11, 101: 12, 101: 16, 103: 24, 107: 5,  
 107: 20, 107: 21, 108: 25, 109: 13,  
 109: 22, 110: 5, 110: 7, 111: 9, 111: 19,  
 112: 23, 113: 25, 117: 22, 119: 25,  
 120: 11, 122: 14, 123: 1  
**how** - 15: 3, 17: 1, 20: 1, 27: 3, 36: 22,  
 46: 3, 83: 1, 85: 7, 94: 5, 94: 9, 94: 23,  
 116: 20, 117: 23, 117: 25, 120: 6, 124: 16  
**Howard** - 12: 4, 12: 5  
**however** - 22: 13  
**hundred** - 24: 4  
**hundreds** - 117: 15  
**hurt** - 124: 24  
**husband** - 72: 2, 72: 9, 72: 10, 72: 11,  
 72: 12, 75: 5, 95: 25, 96: 11, 96: 25,  
 115: 16, 115: 23, 117: 5  
**husband's** - 32: 19, 33: 1, 91: 16  
**hypertension** - 109: 5

## I

**I** - 2: 3, 2: 20, 2: 21, 2: 22, 2: 23, 2: 25,  
 3: 3, 3: 7, 3: 8, 3: 9, 3: 10, 3: 13, 3: 15, 3: 16,  
 3: 17, 4: 4, 4: 9, 4: 14, 4: 17, 4: 21, 5: 2,  
 5: 23, 10: 2, 10: 11, 10: 14, 11: 2, 11: 5,  
 11: 12, 11: 14, 11: 18, 11: 19, 11: 20,  
 11: 22, 11: 23, 12: 3, 12: 4, 12: 9, 13: 10,  
 13: 25, 14: 2, 14: 7, 15: 3, 15: 6, 17: 10,  
 18: 5, 18: 6, 18: 7, 18: 17, 18: 19, 18: 20,  
 18: 25, 19: 13, 19: 14, 19: 15, 19: 17,  
 19: 18, 19: 19, 19: 23, 19: 25, 20: 1, 20: 5,  
 20: 8, 20: 10, 20: 12, 20: 13, 20: 22, 20: 23,  
 20: 24, 21: 13, 21: 24, 22: 1, 22: 11, 22: 12,  
 22: 19, 23: 1, 23: 5, 23: 6, 23: 7, 23: 8,  
 23: 9, 23: 12, 23: 20, 23: 21, 23: 22, 23: 23,  
 23: 24, 23: 25, 24: 1, 24: 2, 24: 3, 24: 4,  
 24: 5, 24: 7, 24: 13, 24: 15, 24: 18, 24: 19,  
 24: 20, 24: 21, 24: 23, 24: 24, 25: 17, 26: 1,

26: 5, 26: 10, 26: 16, 26: 17, 26: 19, 26: 20, 27: 5, 27: 18, 27: 20, 27: 22, 27: 23, 29: 3, 30: 20, 30: 23, 30: 25, 31: 6, 31: 8, 31: 12, 31: 23, 31: 24, 32: 1, 32: 3, 32: 4, 32: 8, 32: 16, 33: 3, 33: 5, 33: 20, 33: 24, 34: 2, 34: 23, 35: 19, 35: 22, 35: 25, 36: 4, 37: 11, 37: 15, 37: 17, 37: 19, 37: 23, 38: 1, 38: 10, 38: 11, 38: 13, 39: 2, 39: 5, 39: 12, 40: 5, 40: 9, 40: 10, 40: 22, 41: 1, 41: 10, 41: 11, 41: 22, 41: 24, 42: 1, 43: 6, 43: 7, 43: 11, 43: 16, 43: 19, 43: 22, 43: 25, 44: 12, 44: 17, 45: 3, 45: 4, 45: 12, 45: 15, 46: 12, 46: 18, 46: 20, 46: 23, 48: 20, 48: 22, 48: 24, 49: 3, 49: 4, 49: 10, 50: 2, 50: 7, 50: 9, 50: 15, 50: 20, 51: 13, 51: 19, 51: 21, 52: 10, 52: 13, 52: 16, 52: 25, 53: 6, 53: 15, 55: 3, 55: 4, 55: 5, 55: 6, 55: 7, 55: 10, 55: 22, 56: 1, 56: 12, 56: 13, 56: 14, 56: 15, 56: 18, 56: 21, 56: 23, 57: 12, 57: 16, 57: 17, 57: 23, 57: 24, 57: 25, 58: 2, 58: 7, 58: 8, 58: 9, 58: 10, 58: 22, 60: 1, 60: 18, 60: 19, 60: 20, 60: 21, 61: 3, 61: 21, 62: 25, 63: 3, 63: 8, 63: 9, 63: 11, 63: 12, 63: 14, 63: 19, 64: 25, 65: 3, 65: 4, 65: 10, 65: 14, 65: 17, 65: 18, 66: 2, 66: 4, 66: 5, 66: 7, 66: 22, 67: 1, 67: 9, 67: 10, 67: 12, 68: 2, 68: 16, 69: 4, 69: 5, 69: 6, 69: 16, 69: 17, 70: 2, 70: 10, 71: 2, 71: 4, 71: 5, 71: 6, 71: 8, 71: 15, 71: 16, 72: 3, 72: 6, 72: 7, 72: 14, 72: 16, 72: 21, 72: 24, 73: 1, 73: 4, 73: 16, 73: 17, 73: 18, 73: 20, 73: 22, 75: 1, 75: 11, 76: 8, 76: 17, 76: 23, 77: 5, 77: 6, 77: 10, 77: 15, 77: 19, 77: 21, 77: 25, 78: 13, 78: 16, 78: 24, 79: 6, 80: 4, 80: 7, 80: 20, 81: 3, 81: 8, 81: 12, 82: 4, 82: 5, 82: 13, 82: 15, 83: 17, 83: 25, 84: 20, 85: 8, 85: 15, 86: 2, 86: 4, 86: 9, 86: 12, 86: 19, 89: 11, 89: 17, 89: 20, 90: 7, 90: 19, 91: 15, 91: 25, 92: 12, 92: 14, 92: 25, 93: 8, 93: 14, 93: 16, 93: 17, 93: 18, 93: 19, 94: 4, 94: 5, 94: 6, 94: 8, 94: 9, 94: 10, 94: 11, 94: 15, 94: 25, 95: 10, 95: 11, 95: 21, 96: 4, 96: 8, 96: 17, 96: 18, 96: 22, 97: 13, 98: 2, 98: 22, 98: 24, 99: 6, 99: 10, 99: 14, 100: 23, 100: 25, 101: 1, 101: 14, 101: 17, 101: 18, 101: 22, 102: 10, 102: 12, 102: 13, 102: 24, 103: 6, 103: 7, 103: 10, 103: 11, 104: 12, 104: 17, 104: 19, 105: 4, 105: 5, 105: 6, 105: 7, 105: 8, 105: 9, 105: 15, 105: 19, 105: 24, 106: 2, 106: 3, 106: 7, 106: 12, 107: 18, 107: 24, 108: 4, 108: 9, 108: 16, 109: 1, 109: 4, 109: 5, 109: 7, 111: 15, 111: 22, 113: 11, 114: 22, 114: 23, 116: 14, 116: 15, 117: 10, 117: 11, 117: 13, 118: 9, 118: 10, 118: 14, 118: 17, 118: 18, 119: 4, 119: 9, 120: 23, 121: 25, 122: 1, 122: 21, 123: 2, 123: 9, 123: 18, 123: 20, 124: 6, 124: 13, 124: 19, 124: 23, 125: 4, 125: 16, 125: 17, 125: 19, 125: 25

**III** - 2: 9, 2: 13, 4: 1, 12: 14, 17: 7, 28: 4, 37: 14, 39: 24, 64: 8, 68: 13, 69: 3, 70: 23, 76: 14, 77: 10, 85: 11

**III** - 4: 13, 7: 2, 12: 5, 13: 25, 15: 1, 18: 18, 18: 19, 19: 25, 23: 11, 27: 10, 28: 19, 31: 14, 38: 7, 38: 8, 38: 23, 41: 12, 46: 11, 50: 3, 50: 20, 50: 21, 52: 10, 56: 13, 57: 25, 59: 22, 60: 1, 60: 17, 62: 4, 63: 5, 63: 13, 64: 2, 64: 8, 65: 11, 65: 17, 76: 6, 77: 19, 80: 1, 83: 1, 83: 6, 84: 18, 84: 20, 87: 18, 89: 21, 90: 18, 91: 23, 92: 2, 97: 11, 100: 9, 101: 5, 101: 13, 104: 2, 104: 11, 104: 18, 106: 5, 107: 6, 107: 21, 107: 22, 109: 1, 109: 6, 111: 11, 112: 25, 114: 8, 117: 4, 117: 10, 118: 16, 119: 2, 122: 23, 124: 12, 126: 5

**I've** - 23: 22, 28: 4, 54: 19, 57: 5, 58: 17, 69: 3, 99: 21, 105: 18, 122: 22, 124: 23

**Ice** - 48: 5

**idea** - 58: 9, 94: 5, 95: 11

**identified** - 87: 10

**idlewild** - 123: 5

**if** - 3: 9, 23: 6, 27: 15, 27: 19, 27: 23, 34: 21, 39: 20, 57: 11, 58: 18, 60: 20, 63: 3, 63: 11, 63: 17, 64: 18, 65: 13, 66: 24, 67: 6, 67: 10, 72: 5, 73: 17, 77: 1, 85: 11, 89: 8, 89: 10, 100: 10, 102: 10, 102: 24, 103: 11, 106: 1, 106: 2, 106: 4, 118: 10, 119: 4, 124: 14, 124: 15, 124: 17, 124: 19

**if** - 20: 9, 22: 8, 27: 25, 67: 11, 68: 10, 68: 12, 73: 11, 73: 22, 77: 17, 86: 13, 93: 18, 99: 23, 105: 6, 105: 9, 105: 24, 106: 7, 114: 22, 124: 6

**ignore** - 29: 20, 118: 19

**illegal** - 116: 2, 116: 16

**impair** - 14: 11

**impartial** - 11: 17, 17: 9, 17: 10, 23: 23, 24: 11, 26: 23, 34: 9, 41: 25, 49: 14, 50: 6, 57: 14, 57: 22, 62: 24, 64: 16, 65: 9, 66: 8, 66: 12, 68: 15, 71: 13, 72: 15, 78: 22, 81: 14, 90: 21, 96: 7, 99: 5, 106: 10, 110: 22, 112: 4, 112: 13, 113: 17, 116: 17

**impartiality** - 70: 9

**impartially** - 14: 18, 22: 6, 59: 1, 60: 12, 79: 3, 85: 24, 102: 4, 105: 1, 124: 11

**important** - 18: 9, 18: 11

**impression** - 39: 7, 45: 5

**in** - 2: 1, 22: 3, 29: 11, 39: 4, 56: 24, 57: 24, 58: 20, 76: 4, 83: 24, 84: 16, 85: 6, 85: 10, 85: 22, 121: 10, 124: 13, 125: 15

**in** - 2: 14, 2: 21, 3: 9, 3: 13, 3: 18, 3: 20, 3: 22, 4: 3, 4: 7, 4: 16, 4: 21, 5: 1, 5: 7, 5: 8, 5: 17, 5: 18, 10: 1, 10: 19, 10: 24, 11: 1, 11: 2, 11: 7, 11: 13, 11: 21, 12: 4, 12: 7, 13: 7, 13: 11, 14: 10, 14: 11, 15: 14, 16: 11, 16: 14, 16: 24, 17: 23, 18: 13, 18: 22, 18: 24, 20: 4, 22: 15, 23: 16, 23: 23, 24: 11, 24: 15, 24: 21, 25: 11, 25: 15, 26: 15, 26: 21, 27: 13, 27: 20, 27: 21, 27: 25, 28: 2, 28: 5, 28: 6, 29: 13, 29: 18, 30: 20, 31: 16, 31: 20, 31: 24, 32: 9, 32: 22, 33: 9, 33: 10, 34: 1, 34: 9, 35: 14, 36: 24, 37: 4, 38: 3, 39: 17, 40: 23, 40: 25, 41: 1, 41: 4, 42: 8, 42: 10, 42: 19, 42: 20, 43: 11, 43: 20, 44: 2, 45: 19, 45: 24, 46: 9, 46: 13, 48: 16, 48: 25, 49: 2, 49: 6, 49: 10, 49: 14, 49: 19, 49: 23, 50: 8, 50: 9, 50: 21, 51: 5, 51: 11, 52: 17, 53: 2, 55: 1, 56: 13, 56: 18, 56: 22, 57: 11, 57: 15, 57: 17, 57: 19, 57: 22, 58: 1, 58: 9, 60: 6, 60: 21, 61: 3, 61: 4, 61: 5, 61: 10, 62: 9, 63: 2, 63: 20, 64: 18, 64: 20, 64: 22, 64: 25, 65: 2, 65: 5, 65: 6, 66: 23, 67: 5, 68: 10, 69: 3, 70: 9, 73: 2, 73: 10, 75: 14, 75: 15, 76: 20, 77: 7, 77: 13, 77: 15, 77: 17, 77: 22, 78: 1, 78: 2, 78: 5, 78: 12, 78: 22, 79: 3, 81: 14, 82: 9, 82: 17, 83: 17, 83: 19, 83: 20, 84: 3, 85: 24, 86: 18, 86: 20, 86: 23, 88: 3, 88: 25, 89: 8, 89: 9, 89: 18, 90: 7, 90: 10, 90: 20, 90: 21, 92: 9, 92: 15, 92: 18, 92: 19, 92: 20, 94: 8, 95: 1, 95: 3, 95: 11, 96: 1, 96: 8, 96: 12, 96: 13, 97: 6, 97: 14, 97: 17, 97: 21, 97: 22, 97: 23, 98: 1, 99: 5, 100: 12, 100: 20, 101: 14, 101: 22, 101: 23, 104: 12, 105: 1, 106: 10, 107: 12, 108: 1, 108: 5, 108: 10, 110: 17, 111: 1, 111: 13, 111: 15, 111: 23, 112: 4, 112: 9, 112: 13, 113: 3, 113: 8, 113: 12, 115: 8, 115: 13, 115: 21, 115: 23, 116: 17, 118: 4, 118: 8, 118: 12, 121: 4, 121: 7, 121: 23, 122: 18, 122: 24, 123: 2, 123: 4, 123: 7, 123: 11, 123: 14, 123: 21, 123: 22, 124: 11, 124: 15, 125: 16

**incident** - 117: 8

**incidents** - 86: 22

**including** - 44: 14

**inconsistency** - 40: 10

**inconveniencing** - 5: 6

**indicated** - 76: 10

**indicating** - 50: 1, 62: 5, 65: 3, 65: 5, 115: 15

**indicating** - 110: 14

**indicted** - 36: 17, 90: 7

**indictment** - 44: 1, 44: 20, 77: 22, 86: 5, 105: 11, 124: 25, 125: 4

**individual** - 18: 8, 20: 21

**information** - 20: 4, 67: 12

**informed** - 76: 18

**innocence** - 103: 11

**innocent** - 22: 21, 24: 12, 35: 24, 36: 3, 36: 5, 38: 17, 44: 10, 55: 9, 62: 12, 71: 18, 71: 19, 80: 14, 80: 15, 80: 23, 93: 22, 94: 18, 99: 1, 99: 2, 105: 13, 105: 21, 114: 3, 125: 11

**Innocent** - 44: 25

**inquire** - 67: 10

**inquires** - 28: 1

**inquiry** - 16: 12

**inside** - 29: 2

**instance** - 125: 15

**instances** - 58: 8, 58: 10

**instruct** - 83: 25

**instructed** - 102: 24

**instruction** - 20: 23, 36: 23, 86: 7, 106: 8

**instructions** - 10: 22, 12: 10, 13: 13, 15: 5, 17: 1, 17: 6, 17: 8, 18: 16, 18: 18, 18: 20, 19: 19, 19: 20, 20: 24, 20: 25, 22: 18, 23: 16, 27: 3, 29: 17, 35: 11, 37: 5, 37: 7, 40: 6, 43: 15, 44: 18, 53: 2, 60: 6, 60: 8, 62: 21, 70: 20, 72: 13, 79: 4, 79: 12, 81: 2, 82: 16, 84: 4, 85: 25, 86: 3, 86: 15, 88: 21, 102: 25, 105: 2, 105: 3, 105: 9, 108: 15, 113: 9, 114: 16, 114: 19, 114: 24, 116: 20, 118: 4, 118: 10, 119: 10, 120: 6, 120: 19

**intellect** - 23: 15

**intend** - 3: 22

**intercourse** - 43: 9

**interested** - 57: 19, 83: 18

**interfere** - 57: 13, 106: 5

**interferes** - 65: 9

**intimidating** - 122: 18

**into** - 3: 9, 16: 25, 101: 17, 106: 6, 119: 3, 125: 7

**introduced** - 86: 13

**investigation** - 100: 12

**investigators** - 49: 18

**investment** - 93: 1

**involved** - 11: 21, 56: 22, 58: 9, 61: 10, 90: 4

**involving** - 117: 13

**ion** - 86: 23

**is** - 2: 18, 3: 24, 5: 21, 6: 1, 6: 3, 6: 14, 6: 15, 6: 16, 6: 17, 6: 18, 6: 19, 6: 20, 6: 21, 6: 22, 6: 25, 7: 1, 7: 4, 7: 5, 7: 6, 7: 7, 7: 8, 7: 9, 7: 10, 7: 11, 7: 12, 7: 13, 7: 14, 7: 15, 7: 16, 7: 17, 7: 18, 7: 19, 7: 20, 7: 21, 7: 22, 7: 23, 7: 24, 7: 25, 8: 1, 8: 2, 8: 3, 8: 4, 8: 5, 8: 6, 8: 7, 8: 8, 8: 9, 8: 10, 8: 11, 8: 12, 8: 13, 8: 14, 8: 15, 8: 16, 8: 17, 8: 18, 8: 19, 8: 20, 8: 21, 8: 22, 8: 23, 8: 24, 8: 25, 9: 1, 9: 2, 9: 3, 9: 4, 9: 5, 9: 6, 9: 7, 9: 8, 9: 9, 9: 10, 9: 11, 9: 12, 9: 13, 9: 14, 9: 15, 9: 16, 9: 17, 9: 18, 9: 19, 9: 20, 9: 21, 9: 22, 10: 18, 12: 9, 13: 6, 13: 16, 14: 16, 15: 24, 16: 9, 16: 24, 18: 11, 21: 2, 21: 4, 22: 4, 22: 6, 22: 20, 23: 4, 23: 5, 23: 11, 23: 25, 24: 1, 24: 10, 24: 12, 26: 5, 26: 25, 30: 7, 30: 10, 33: 6, 33: 8, 34: 21, 34: 22, 35: 24, 36: 2, 36: 25, 37: 2, 37: 4, 37: 12, 38: 16, 39: 2, 39: 20, 44: 20, 45: 18, 45: 20, 45: 21, 47: 6, 48: 1, 48: 2, 48: 4, 48: 23, 49: 9, 50: 4, 52: 20, 52: 23, 55: 8, 56: 6, 56: 7, 57: 11, 57: 17, 57: 23, 58: 24, 59: 2, 60: 12, 60: 16, 61: 22, 62: 6, 62: 11, 63: 5, 65: 20, 65: 24, 65: 25, 66: 23, 70: 18, 71: 15, 71: 18, 71: 20, 72: 2, 72: 4, 72: 10, 73: 3, 75: 17, 75: 23, 76: 2, 78: 5, 79: 19, 80: 13, 80: 14, 81: 18, 82: 3, 82: 17, 86: 5, 86: 13, 87: 10, 90: 7, 91: 16, 92: 18, 93: 21, 94: 16, 94: 24,

95: 24, 97: 6, 98: 3, 99: 4, 99: 20, 101: 22, 102: 2, 103: 12, 103: 21, 104: 22, 105: 11, 105: 21, 107: 17, 108: 20, 109: 6, 110: 7, 111: 2, 112: 21, 114: 2, 115: 4, 115: 8, 115: 14, 116: 25, 117: 16, 117: 18, 119: 15, 120: 2, 120: 13, 123: 10, 124: 25, 125: 4, 125: 10, 126: 1  
**is** - 4: 17, 13: 11, 22: 1, 66: 3, 72: 6, 73: 9, 84: 15, 88: 2, 90: 1, 91: 12, 91: 14, 104: 21, 121: 23  
**Island** - 25: 23, 41: 2, 53: 12, 59: 24, 89: 23, 101: 14  
**Isn't** - 52: 15, 89: 18  
**isn't** - 6: 24, 10: 15, 42: 24, 45: 24, 48: 10, 56: 7  
**issue** - 68: 13, 77: 25, 92: 25, 102: 18  
**issues** - 120: 18, 126: 5  
**it** - 14: 5, 26: 19, 26: 20, 34: 1, 34: 2, 39: 7, 39: 25, 41: 2, 49: 5, 61: 8, 61: 18, 67: 20, 72: 23, 78: 2, 83: 17, 86: 6, 88: 4, 89: 10, 91: 11, 93: 5, 94: 23  
**it** - 2: 13, 2: 14, 2: 23, 4: 4, 4: 9, 4: 10, 4: 17, 4: 23, 5: 5, 5: 16, 5: 21, 7: 2, 7: 3, 10: 15, 11: 12, 11: 15, 11: 19, 11: 23, 12: 12, 14: 5, 14: 17, 15: 2, 18: 21, 20: 7, 22: 1, 22: 5, 22: 8, 24: 20, 24: 21, 26: 9, 27: 4, 28: 2, 31: 24, 31: 25, 32: 12, 32: 17, 32: 24, 33: 21, 33: 25, 34: 23, 35: 15, 36: 19, 37: 12, 37: 13, 37: 21, 37: 22, 37: 25, 42: 24, 45: 3, 45: 14, 48: 10, 50: 1, 54: 7, 56: 6, 56: 7, 58: 25, 60: 4, 60: 11, 60: 18, 60: 23, 60: 24, 61: 1, 61: 2, 61: 15, 61: 16, 61: 17, 61: 25, 63: 14, 63: 18, 63: 19, 63: 24, 65: 10, 65: 20, 65: 24, 65: 25, 66: 5, 68: 3, 68: 6, 69: 3, 69: 22, 70: 12, 72: 10, 72: 14, 72: 20, 73: 11, 75: 24, 76: 5, 76: 20, 77: 2, 77: 3, 77: 7, 77: 13, 82: 1, 85: 17, 86: 10, 87: 23, 88: 12, 89: 11, 89: 18, 90: 2, 91: 12, 91: 14, 93: 4, 93: 9, 94: 9, 96: 23, 98: 22, 98: 24, 99: 15, 100: 22, 102: 4, 103: 7, 105: 8, 106: 1, 108: 7, 108: 9, 109: 6, 116: 10, 116: 16, 117: 6, 117: 9, 122: 22, 123: 5, 123: 6, 124: 6, 125: 4, 125: 17, 125: 23, 126: 2  
**its** - 5: 9, 5: 10, 16: 11, 21: 25, 23: 11, 23: 18, 25: 14, 35: 8, 35: 18, 36: 18, 42: 25, 44: 1, 68: 2, 69: 20, 86: 6, 87: 11, 87: 13, 90: 3, 92: 24, 105: 8, 109: 17, 116: 4, 125: 6, 125: 9  
**its** - 2: 25, 5: 13, 11: 16, 14: 24, 58: 16, 60: 4, 67: 8, 77: 17, 80: 15, 86: 14, 106: 2, 112: 15, 122: 18, 122: 24, 123: 6, 123: 7, 123: 18, 125: 1  
**Italian** - 60: 16, 60: 17, 64: 16, 65: 8  
**its** - 105: 22

## J

**J** - 1: 12, 1: 17  
**Jack** - 1: 9  
**jacket** - 16: 7  
**jail** - 57: 11, 57: 17, 90: 7, 116: 8  
**Jamaica** - 60: 3  
**January** - 1: 6, 2: 4, 2: 8, 2: 16, 126: 6  
**Jersey** - 50: 9, 85: 20, 92: 18  
**job** - 11: 4, 50: 19, 59: 23, 83: 8, 99: 11, 99: 13, 99: 20, 104: 16, 109: 23  
**John** - 54: 21, 58: 7, 62: 7  
**joke** - 3: 11  
**jokes** - 3: 18  
**Jones** - 41: 12  
**Jordan** - 1: 19  
**Judge** - 1: 10, 2: 20, 3: 3, 4: 14, 10: 2, 13: 3, 16: 2, 17: 11, 18: 6, 18: 19, 20: 6, 20: 21, 27: 15, 31: 25, 40: 8, 66: 5, 68: 18, 68: 22, 81: 6, 84: 9, 84: 11, 103: 3, 103: 22, 110: 25  
**judge** - 7: 3, 31: 22, 32: 1, 33: 6, 40: 6, 94: 6, 94: 9, 101: 12, 120: 3, 121: 12, 121: 13, 121: 23

**judgment** - 23: 23  
**jump** - 101: 22, 124: 24  
**jumped** - 124: 15, 124: 18, 124: 20  
**Juror** - 3: 24, 6: 1, 6: 3, 6: 4, 6: 5, 6: 6, 6: 7, 6: 14, 6: 15, 6: 16, 6: 17, 6: 18, 6: 19, 6: 20, 6: 21, 6: 22, 7: 1, 7: 4, 7: 5, 7: 6, 7: 7, 7: 8, 7: 9, 7: 10, 7: 11, 7: 12, 7: 13, 7: 14, 7: 15, 7: 16, 7: 17, 7: 18, 7: 19, 7: 20, 7: 21, 7: 22, 7: 23, 7: 24, 7: 25, 8: 1, 8: 2, 8: 3, 8: 4, 8: 5, 8: 6, 8: 7, 8: 8, 8: 9, 8: 10, 8: 11, 8: 12, 8: 13, 8: 14, 8: 15, 8: 16, 8: 17, 8: 18, 8: 19, 8: 20, 8: 21, 8: 22, 8: 23, 8: 24, 8: 25, 9: 1, 9: 2, 9: 3, 9: 4, 9: 5, 9: 6, 9: 7, 9: 8, 9: 9, 9: 10, 9: 11, 9: 12, 9: 13, 9: 14, 9: 15, 9: 16, 9: 17, 9: 18, 9: 19, 9: 20, 9: 21, 9: 22, 10: 6, 10: 8, 10: 9, 10: 10, 10: 14, 10: 17, 10: 21, 10: 23, 11: 1, 11: 11, 11: 18, 12: 2, 12: 8, 12: 14, 13: 11, 13: 14, 13: 16, 13: 22, 13: 25, 14: 4, 14: 6, 14: 7, 14: 9, 14: 12, 14: 15, 14: 21, 14: 23, 15: 1, 15: 6, 15: 15, 15: 16, 15: 24, 16: 2, 16: 4, 16: 6, 16: 8, 16: 10, 16: 16, 16: 20, 16: 22, 17: 5, 17: 7, 17: 10, 17: 20, 17: 23, 18: 10, 18: 14, 18: 17, 18: 25, 19: 10, 19: 13, 19: 17, 19: 22, 20: 5, 20: 9, 20: 12, 20: 15, 21: 11, 21: 17, 21: 20, 21: 23, 21: 25, 22: 2, 22: 16, 22: 19, 22: 22, 23: 1, 23: 4, 23: 18, 24: 7, 24: 13, 24: 18, 25: 1, 25: 6, 25: 10, 25: 13, 25: 20, 25: 22, 26: 1, 26: 4, 26: 7, 26: 9, 26: 11, 26: 16, 26: 19, 26: 24, 27: 2, 27: 5, 28: 7, 28: 10, 28: 12, 28: 15, 28: 17, 28: 22, 28: 24, 29: 3, 29: 5, 29: 8, 29: 10, 29: 12, 29: 15, 29: 19, 29: 22, 30: 3, 30: 5, 30: 14, 30: 16, 30: 18, 30: 20, 30: 23, 30: 25, 31: 5, 31: 10, 31: 12, 31: 17, 31: 19, 31: 21, 31: 23, 32: 3, 32: 6, 32: 9, 32: 11, 32: 13, 32: 16, 32: 21, 32: 25, 33: 3, 33: 8, 33: 12, 33: 17, 33: 20, 33: 24, 34: 6, 34: 10, 34: 12, 34: 13, 34: 15, 35: 4, 35: 6, 35: 8, 35: 12, 35: 18, 35: 20, 35: 25, 36: 4, 36: 9, 36: 14, 36: 16, 36: 21, 37: 1, 37: 6, 37: 9, 37: 11, 37: 14, 37: 17, 37: 19, 37: 22, 38: 1, 38: 4, 38: 7, 38: 11, 38: 13, 38: 18, 38: 25, 40: 12, 40: 17, 40: 19, 40: 22, 40: 24, 41: 1, 41: 5, 41: 8, 41: 10, 41: 15, 41: 20, 41: 22, 41: 24, 42: 1, 42: 5, 42: 6, 42: 11, 42: 14, 42: 18, 42: 21, 42: 23, 43: 1, 43: 4, 43: 6, 43: 10, 43: 16, 43: 20, 43: 23, 44: 3, 44: 6, 44: 9, 44: 12, 44: 15, 44: 17, 44: 19, 44: 22, 44: 25, 45: 4, 45: 12, 45: 15, 45: 18, 45: 20, 46: 3, 46: 5, 46: 7, 46: 11, 46: 16, 46: 20, 46: 23, 47: 1, 47: 4, 47: 7, 47: 10, 47: 12, 47: 13, 47: 14, 48: 1, 48: 3, 48: 5, 48: 7, 48: 9, 48: 12, 48: 14, 48: 16, 48: 20, 48: 22, 49: 1, 49: 3, 49: 7, 49: 9, 49: 15, 49: 20, 49: 22, 49: 24, 50: 2, 50: 5, 50: 7, 50: 13, 50: 17, 50: 20, 50: 25, 51: 2, 51: 4, 51: 7, 51: 9, 51: 12, 51: 16, 51: 19, 51: 21, 52: 3, 52: 4, 52: 5, 52: 6, 52: 8, 52: 10, 52: 13, 52: 16, 52: 19, 52: 22, 52: 25, 53: 3, 53: 6, 53: 9, 53: 12, 53: 15, 53: 18, 53: 19, 53: 20, 53: 21, 53: 23, 54: 1, 54: 3, 54: 6, 54: 8, 54: 10, 54: 12, 54: 15, 54: 18, 54: 22, 54: 24, 55: 3, 55: 10, 55: 13, 55: 15, 55: 17, 55: 19, 55: 22, 56: 1, 56: 5, 56: 8, 56: 10, 56: 12, 56: 18, 56: 25, 57: 2, 57: 5, 57: 8, 57: 10, 57: 16, 57: 21, 57: 24, 58: 4, 58: 6, 58: 14, 58: 16, 58: 22, 59: 3, 59: 5, 59: 7, 59: 8, 59: 10, 59: 12, 59: 14, 59: 16, 59: 18, 59: 20, 59: 22, 60: 1, 60: 7, 60: 10, 60: 15, 60: 20, 60: 24, 61: 2, 61: 5, 61: 8, 61: 10, 61: 13, 61: 16, 61: 18, 61: 21, 61: 24, 62: 2, 62: 4, 62: 10, 62: 13, 62: 16, 62: 18, 62: 20, 62: 22, 62: 25, 63: 3, 63: 7, 63: 11, 63: 16, 63: 19, 63: 21, 63: 22, 64: 21, 64: 24, 65: 2, 65: 7, 65: 10, 65: 14, 65: 17, 65: 22, 66: 2, 66: 4, 66: 7, 66: 10, 66: 14, 66: 16, 66: 17, 67: 14, 67: 16, 67: 20, 67: 24, 68: 2, 68: 5, 68: 9, 68: 14, 68: 16, 68: 21, 69: 9, 69: 10, 69: 12, 69: 14, 69: 16, 69: 19, 69: 21,

69: 23, 69: 25, 70: 4, 70: 7, 70: 10, 70: 14, 70: 17, 70: 23, 70: 25, 71: 2, 71: 4, 71: 8, 71: 11, 71: 14, 71: 22, 71: 24, 72: 2, 72: 11, 72: 14, 72: 16, 72: 18, 72: 21, 73: 4, 73: 7, 73: 11, 73: 16, 73: 20, 73: 22, 73: 25, 74: 1, 75: 7, 75: 9, 75: 12, 75: 14, 75: 17, 78: 7, 78: 9, 78: 11, 78: 13, 78: 15, 78: 18, 78: 20, 78: 24, 79: 6, 79: 9, 79: 13, 79: 18, 79: 20, 79: 22, 79: 25, 80: 2, 80: 5, 80: 9, 80: 12, 80: 17, 80: 20, 80: 24, 81: 3, 81: 12, 81: 15, 81: 19, 81: 21, 81: 23, 81: 25, 82: 2, 82: 4, 82: 7, 82: 11, 82: 15, 82: 18, 82: 22, 82: 24, 83: 1, 83: 5, 83: 8, 83: 10, 83: 12, 83: 14, 83: 17, 83: 20, 83: 23, 84: 1, 84: 5, 84: 7, 84: 13, 84: 22, 84: 24, 84: 25, 85: 2, 85: 4, 85: 6, 85: 8, 85: 10, 85: 14, 85: 18, 86: 2, 86: 4, 86: 8, 86: 16, 86: 19, 86: 25, 87: 5, 87: 15, 87: 16, 87: 18, 87: 20, 87: 22, 87: 24, 88: 1, 88: 4, 88: 7, 88: 9, 88: 12, 88: 15, 88: 17, 88: 20, 88: 22, 89: 1, 89: 4, 89: 5, 89: 6, 91: 8, 91: 10, 91: 13, 91: 15, 91: 18, 91: 21, 91: 23, 91: 25, 92: 2, 92: 4, 92: 7, 92: 9, 92: 12, 92: 14, 92: 17, 92: 20, 92: 22, 92: 24, 93: 4, 93: 6, 93: 8, 93: 10, 93: 14, 93: 23, 94: 2, 94: 4, 94: 11, 94: 13, 94: 15, 94: 21, 94: 23, 95: 1, 95: 5, 95: 7, 95: 10, 95: 14, 95: 15, 95: 17, 95: 18, 95: 21, 95: 24, 96: 4, 96: 8, 96: 11, 96: 17, 96: 22, 97: 2, 97: 3, 97: 4, 97: 8, 97: 10, 97: 12, 97: 16, 97: 19, 97: 22, 97: 25, 98: 4, 98: 6, 98: 8, 98: 10, 98: 13, 98: 15, 98: 17, 98: 20, 98: 22, 99: 2, 99: 6, 99: 10, 99: 13, 99: 17, 99: 19, 99: 21, 99: 25, 100: 3, 100: 4, 100: 5, 100: 6, 100: 8, 100: 13, 100: 16, 100: 19, 100: 22, 100: 25, 101: 3, 101: 5, 101: 7, 101: 8, 101: 9, 101: 10, 101: 12, 101: 14, 101: 17, 101: 21, 102: 1, 102: 8, 102: 10, 102: 17, 102: 19, 102: 23, 103: 1, 103: 6, 103: 10, 103: 13, 103: 16, 103: 18, 103: 23, 103: 25, 104: 2, 104: 4, 104: 6, 104: 8, 104: 11, 104: 15, 104: 17, 104: 22, 105: 4, 105: 15, 105: 17, 105: 23, 106: 1, 106: 9, 106: 12, 106: 18, 106: 21, 107: 1, 107: 2, 107: 3, 107: 6, 107: 8, 107: 11, 107: 13, 107: 14, 107: 19, 107: 21, 107: 24, 108: 2, 108: 4, 108: 7, 108: 9, 108: 14, 108: 16, 108: 19, 108: 22, 108: 24, 109: 1, 109: 4, 109: 9, 109: 10, 109: 12, 109: 14, 109: 17, 109: 19, 109: 21, 109: 23, 109: 25, 110: 2, 110: 4, 110: 6, 110: 8, 110: 12, 110: 14, 110: 16, 110: 19, 110: 21, 110: 23, 111: 4, 111: 6, 111: 7, 111: 8, 111: 10, 111: 12, 111: 15, 111: 18, 111: 20, 111: 22, 112: 1, 112: 3, 112: 6, 112: 9, 112: 12, 112: 15, 112: 18, 112: 19, 112: 22, 112: 24, 113: 1, 113: 4, 113: 6, 113: 11, 113: 14, 113: 16, 113: 18, 113: 20, 113: 21, 113: 23, 113: 24, 114: 1, 114: 4, 114: 7, 114: 12, 114: 15, 114: 18, 114: 21, 114: 25, 115: 5, 115: 7, 115: 12, 115: 17, 115: 20, 115: 23, 116: 4, 116: 7, 116: 9, 116: 12, 116: 14, 116: 19, 116: 22, 117: 3, 117: 6, 117: 11, 117: 12, 117: 19, 117: 21, 117: 23, 118: 2, 118: 5, 118: 9, 118: 14, 118: 17, 118: 21, 118: 23, 119: 7, 119: 9, 119: 11, 119: 16, 119: 19, 119: 21, 120: 1, 120: 4, 120: 7, 120: 10, 120: 12, 120: 14, 120: 16, 120: 20, 120: 23, 121: 1, 121: 3, 121: 6, 121: 9, 121: 11, 121: 15, 121: 17, 121: 19, 121: 22, 121: 25, 122: 4, 122: 11, 122: 15, 122: 17, 122: 21, 123: 2, 123: 4, 123: 15, 123: 18, 123: 20, 124: 1, 124: 5, 124: 12, 124: 23, 125: 3, 125: 8, 125: 12, 125: 15, 125: 21, 126: 4  
**juror** - 3: 15, 3: 16, 3: 20, 6: 1, 9: 24, 12: 20, 13: 1, 13: 4, 13: 20, 14: 8, 15: 16, 15: 20, 15: 25, 17: 9, 20: 7, 20: 16, 21: 1,



|  |  |  |
|--|--|--|
| <p>21: 2, 21: 7, 21: 10, 21: 18, 24: 11, 25: 2, 25: 7, 26: 23, 27: 9, 27: 12, 27: 14, 27: 16, 27: 24, 28: 6, 28: 8, 30: 4, 30: 12, 34: 16, 35: 2, 37: 8, 37: 10, 38: 9, 39: 1, 39: 7, 39: 13, 39: 17, 39: 24, 40: 2, 40: 3, 40: 4, 40: 6, 40: 11, 40: 15, 41: 25, 42: 9, 42: 16, 45: 17, 45: 24, 46: 1, 50: 23, 52: 1, 52: 14, 55: 23, 55: 25, 56: 2, 64: 2, 64: 10, 66: 6, 66: 8, 68: 19, 71: 13, 72: 15, 75: 2, 76: 2, 78: 5, 79: 17, 79: 19, 81: 7, 81: 18, 84: 17, 84: 23, 87: 3, 87: 7, 89: 3, 89: 7, 89: 8, 91: 1, 95: 16, 96: 7, 97: 14, 97: 17, 103: 14, 103: 19, 106: 24, 107: 7, 107: 23, 107: 24, 108: 18, 110: 13, 110: 17, 112: 21, 115: 4, 115: 9, 115: 14, 119: 20, 119: 24, 122: 10, 122: 12, 123: 25, 125: 22, 126: 4</p> <p><b>juror's</b> - 40: 7</p> <p><b>jurors</b> - 2: 4, 5: 7, 6: 8, 6: 10, 9: 25, 27: 19, 55: 21, 64: 5, 68: 23, 68: 24, 68: 25, 69: 2, 69: 4, 69: 5, 69: 7, 72: 8</p> <p><b>jury</b> - 1: 10, 2: 1, 2: 21, 4: 10, 10: 6, 10: 18, 12: 20, 13: 20, 14: 10, 15: 20, 15: 25, 16: 25, 20: 16, 21: 18, 23: 21, 37: 3, 48: 18, 65: 25, 67: 8, 69: 3, 72: 4, 72: 5, 74: 8, 77: 25, 83: 22, 88: 8, 89: 8, 92: 20, 92: 21, 107: 12, 116: 21, 126: 1</p> <p><b>just</b> - 6: 23, 18: 23, 19: 8, 20: 4, 21: 7, 23: 24, 27: 18, 31: 6, 31: 12, 35: 23, 36: 11, 36: 15, 36: 18, 38: 24, 43: 12, 44: 1, 44: 21, 45: 5, 48: 20, 52: 15, 60: 21, 65: 10, 65: 14, 66: 4, 72: 6, 72: 22, 75: 6, 84: 1, 86: 5, 90: 2, 91: 15, 93: 1, 93: 20, 96: 25, 98: 23, 99: 10, 102: 13, 104: 19, 105: 11, 106: 2, 108: 20, 123: 9, 125: 1, 125: 6</p> <p><b>Just</b> - 13: 14, 22: 2, 26: 1, 36: 17, 89: 12, 108: 20, 117: 24, 118: 19, 124: 7</p> <p><b>justice</b> - 49: 11</p> | <p><b>lady</b> - 65: 2</p> <p><b>Laguardia</b> - 123: 5</p> <p><b>language</b> - 39: 3, 39: 4, 39: 6, 39: 11</p> <p><b>laryngitis</b> - 52: 11, 52: 13</p> <p><b>last</b> - 12: 1, 13: 7, 52: 23, 65: 5, 69: 17, 103: 7, 109: 4, 122: 1, 123: 10, 124: 7</p> <p><b>late</b> - 72: 9</p> <p><b>later</b> - 4: 22, 18: 3</p> <p><b>latest</b> - 106: 5</p> <p><b>Law</b> - 13: 16, 15: 24, 21: 17, 25: 6, 28: 7, 30: 5, 30: 11, 34: 21, 34: 23, 35: 1, 40: 14, 42: 10, 42: 14, 45: 18, 45: 23, 47: 14, 119: 21, 119: 23, 122: 11</p> <p><b>law</b> - 10: 24, 11: 1, 11: 7, 33: 6, 45: 3, 49: 18, 50: 22, 51: 18, 80: 18, 82: 17, 83: 25, 93: 12, 114: 17, 114: 20, 123: 14</p> <p><b>law's</b> - 112: 9</p> <p><b>lawyer</b> - 33: 7, 72: 3, 92: 18, 104: 21, 104: 23</p> <p><b>lawyers</b> - 66: 24, 104: 14, 104: 20</p> <p><b>Lawyers</b> - 104: 20</p> <p><b>learn</b> - 96: 20, 118: 8</p> <p><b>learned</b> - 97: 20, 108: 12, 118: 7</p> <p><b>least</b> - 20: 22</p> <p><b>Leave</b> - 74: 4, 74: 5</p> <p><b>leave</b> - 7: 2, 101: 19, 125: 17</p> <p><b>leaves</b> - 12: 20, 15: 20, 20: 16, 25: 2, 27: 14, 30: 4, 34: 16, 39: 1, 42: 9, 45: 17, 50: 25, 52: 4, 119: 20, 122: 10, 125: 22</p> <p><b>Lefferts</b> - 30: 20</p> <p><b>left</b> - 5: 7, 5: 9, 5: 10, 25: 11, 77: 2, 93: 16, 123: 8, 123: 11, 123: 12</p> <p><b>legal</b> - 14: 24, 16: 23, 48: 25, 49: 2, 49: 6, 117: 14, 121: 7</p> <p><b>legally</b> - 16: 24, 86: 14</p> <p><b>less</b> - 72: 18, 72: 20, 98: 20</p> <p><b>let</b> - 7: 2, 64: 8</p> <p><b>Let</b> - 73: 6</p> <p><b>Let's</b> - 63: 18, 63: 24</p> <p><b>let's</b> - 115: 10</p> <p><b>letter</b> - 2: 3, 2: 8, 2: 16</p> <p><b>level</b> - 56: 25</p> <p><b>Lewis</b> - 104: 6</p> <p><b>liable</b> - 124: 6</p> <p><b>library</b> - 69: 17</p> <p><b>lie</b> - 21: 4</p> <p><b>lieutenant</b> - 52: 20</p> <p><b>life</b> - 15: 14, 57: 12, 90: 20</p> <p><b>light</b> - 16: 7</p> <p><b>like</b> - 3: 6, 3: 12, 7: 2, 13: 25, 25: 17, 30: 24, 30: 25, 35: 16, 35: 21, 41: 6, 45: 8, 57: 6, 64: 16, 65: 19, 67: 18, 69: 22, 73: 12, 73: 13, 76: 10, 77: 9, 87: 24, 92: 15, 94: 18, 98: 23, 99: 11, 99: 25, 109: 15, 123: 21, 126: 2</p> <p><b>likely</b> - 72: 4, 72: 20</p> <p><b>limitations</b> - 77: 24</p> <p><b>line</b> - 82: 3, 89: 24, 115: 8</p> <p><b>linoleum</b> - 116: 13</p> <p><b>Linn</b> - 66: 23</p> <p><b>list</b> - 11: 23, 12: 3, 75: 14</p> <p><b>listen</b> - 52: 15</p> <p><b>literary</b> - 70: 4</p> <p><b>little</b> - 14: 3, 21: 25, 22: 2, 45: 8, 52: 10, 55: 4, 83: 18, 113: 3, 122: 17</p> <p><b>live</b> - 12: 4, 30: 20, 40: 23, 40: 25, 41: 1, 42: 19, 42: 20, 51: 8, 78: 10, 81: 22, 85: 5, 87: 19, 101: 13, 101: 14</p> <p><b>lived</b> - 43: 2, 112: 1</p> <p><b>living</b> - 59: 21</p> <p><b>long</b> - 4: 23, 11: 15, 32: 10, 32: 17, 47: 3, 53: 16, 54: 7, 60: 22, 82: 1, 87: 23, 95: 1, 105: 18, 109: 22, 111: 19, 120: 11, 123: 1</p> <p><b>Long</b> - 25: 22, 41: 1, 46: 11, 53: 12, 59: 24</p> <p><b>Look</b> - 50: 1, 64: 23</p> <p><b>look</b> - 3: 5, 45: 7, 54: 16, 65: 19, 73: 17, 73: 19, 73: 21, 109: 15, 118: 14, 118: 17, 120: 5</p> <p><b>looked</b> - 45: 8, 64: 18</p> | <p><b>looking</b> - 70: 7</p> <p><b>Looking</b> - 92: 3</p> <p><b>looks</b> - 45: 10</p> <p><b>lose</b> - 93: 7, 99: 23</p> <p><b>lot</b> - 39: 10, 47: 8, 54: 19, 66: 1, 85: 10, 90: 2, 105: 18, 115: 24</p> <p><b>Lovely</b> - 28: 18</p> <p><b>Low</b> - 56: 25</p> <p><b>Lowe</b> - 68: 7, 68: 11, 81: 17, 89: 2</p> <p><b>lucky</b> - 110: 9</p> <p><b>lunch</b> - 74: 3</p> <p><b>Luncheon</b> - 74: 10</p>  |
| <b>M</b>   |  |  |
|  |  | <p><b>M</b> - 1: 14, 1: 21</p> <p><b>Madam</b> - 2: 3</p> <p><b>madam</b> - 95: 19, 122: 13</p> <p><b>made</b> - 3: 8, 3: 10, 3: 19, 61: 14, 64: 17, 67: 4</p> <p><b>Mafia</b> - 43: 7, 43: 18, 56: 15, 56: 19, 56: 23, 67: 9, 80: 11, 81: 11, 90: 5, 117: 25</p> <p><b>main</b> - 12: 9, 65: 24</p> <p><b>major</b> - 49: 11</p> <p><b>make</b> - 3: 11, 14: 17, 19: 16, 22: 5, 27: 15, 44: 23, 58: 25, 67: 11, 75: 24, 102: 4, 119: 4</p> <p><b>makes</b> - 60: 4, 61: 18, 65: 20, 65: 23, 78: 4</p> <p><b>man</b> - 11: 6, 11: 7</p> <p><b>manager</b> - 85: 13, 109: 19</p> <p><b>Mancuso</b> - 1: 21, 3: 9</p> <p><b>many</b> - 6: 8, 13: 2, 46: 16, 57: 9, 67: 18, 102: 15, 110: 5, 119: 6, 123: 20</p> <p><b>Many</b> - 46: 16</p> <p><b>Marines</b> - 122: 25</p> <p><b>Marisa</b> - 1: 14</p> <p><b>Mark</b> - 2: 7</p> <p><b>mark</b> - 13: 2, 63: 18, 63: 24</p> <p><b>marked</b> - 13: 1, 64: 1, 105: 7</p> <p><b>marshal</b> - 2: 25</p> <p><b>marvelous</b> - 69: 20</p> <p><b>Marzulli</b> - 62: 7</p> <p><b>masters</b> - 50: 21</p> <p><b>material</b> - 2: 17</p> <p><b>matter</b> - 36: 22</p> <p><b>matters</b> - 18: 8, 114: 23</p> <p><b>May</b> - 5: 2</p> <p><b>may</b> - 12: 11, 22: 11, 41: 17, 86: 6, 86: 23, 96: 1, 119: 6, 119: 8, 120: 17</p> <p><b>Maybe</b> - 65: 22</p> <p><b>maybe</b> - 56: 12, 102: 12, 102: 13</p> <p><b>me</b> - 3: 19, 4: 15, 15: 10, 15: 11, 16: 19, 17: 20, 19: 19, 23: 9, 24: 16, 38: 12, 40: 1, 40: 24, 45: 5, 57: 2, 57: 3, 61: 18, 63: 11, 65: 15, 65: 23, 72: 3, 72: 6, 72: 23, 73: 6, 76: 18, 76: 21, 77: 13, 95: 5, 96: 24, 99: 15, 99: 22, 99: 25, 109: 2, 115: 21, 120: 5, 122: 1</p> <p><b>Me</b> - 91: 21</p> <p><b>mean</b> - 2: 21, 12: 1, 19: 15, 20: 8, 24: 7, 24: 24, 33: 24, 36: 12, 36: 18, 43: 16, 46: 18, 49: 4, 50: 7, 57: 16, 63: 11, 73: 1, 93: 21, 94: 17, 123: 20</p> <p><b>means</b> - 75: 11</p> <p><b>meant</b> - 105: 6</p> <p><b>mechanical</b> - 1: 25, 45: 19</p> <p><b>media</b> - 29: 18, 29: 20, 55: 14, 58: 10, 118: 7</p> <p><b>medical</b> - 122: 23, 126: 5</p> <p><b>Medical</b> - 26: 4</p> <p><b>meets</b> - 105: 22</p> <p><b>member</b> - 22: 4, 22: 10, 39: 20, 41: 9, 43: 21, 43: 24, 44: 7, 49: 2, 49: 5, 51: 14, 58: 25, 94: 17, 103: 8, 110: 10, 111: 2, 117: 1, 124: 3</p> <p><b>members</b> - 56: 21, 121: 20</p> <p><b>memories</b> - 96: 24</p> <p><b>mention</b> - 44: 3, 71: 3, 71: 4</p> <p><b>mentioned</b> - 11: 22</p> |
| <b>K</b>   |  |  |
| <p><b>keep</b> - 27: 19, 63: 14, 93: 14, 93: 16, 93: 19, 108: 21, 115: 13</p> <p><b>keeping</b> - 27: 21</p> <p><b>Kelley</b> - 1: 17</p> <p><b>Kew</b> - 54: 3</p> <p><b>kill</b> - 11: 6</p> <p><b>killed</b> - 11: 3, 61: 6, 82: 9, 112: 10</p> <p><b>killing</b> - 56: 20, 113: 2</p> <p><b>kin</b> - 123: 12</p> <p><b>kind</b> - 23: 23, 28: 23, 33: 16, 37: 18, 38: 3, 46: 18, 46: 20, 56: 22, 58: 2, 58: 4, 58: 17, 71: 1, 83: 7, 85: 13, 86: 17, 91: 19, 92: 1, 102: 10, 108: 3, 109: 18, 109: 20, 116: 10, 116: 15, 122: 20, 123: 3</p> <p><b>kinds</b> - 26: 25</p> <p><b>Kitchenware</b> - 115: 25</p> <p><b>knew</b> - 84: 14, 105: 7, 124: 19</p> <p><b>knife</b> - 116: 10, 116: 15</p> <p><b>knives</b> - 115: 25, 116: 2, 116: 16, 117: 14</p> <p><b>know</b> - 3: 16, 10: 20, 11: 24, 12: 7, 12: 9, 14: 5, 20: 1, 20: 13, 23: 6, 23: 25, 24: 21, 24: 23, 26: 10, 31: 7, 31: 13, 32: 14, 33: 15, 33: 20, 33: 24, 34: 1, 35: 19, 35: 25, 36: 13, 38: 10, 43: 6, 45: 4, 45: 12, 49: 3, 55: 3, 55: 5, 56: 13, 56: 19, 57: 12, 57: 23, 57: 25, 58: 1, 58: 10, 58: 17, 60: 17, 60: 20, 61: 3, 64: 8, 65: 17, 65: 18, 66: 11, 75: 11, 77: 11, 84: 12, 88: 6, 90: 7, 92: 14, 94: 6, 95: 20, 95: 21, 96: 4, 98: 18, 99: 3, 104: 19, 105: 5, 105: 10, 105: 19, 111: 13, 113: 12, 116: 14, 124: 14</p> <p><b>knowing</b> - 43: 16, 100: 14</p> <p><b>known</b> - 12: 12, 23: 17, 112: 7, 124: 23</p> <p><b>knows</b> - 60: 16</p>   |  |  |
| <b>L</b>   |  |  |
| <p><b>La</b> - 80: 11, 81: 11</p> <p><b>lack</b> - 56: 15</p>  |  |  |

**mentioning** - 27: 20  
**met** - 76: 18, 76: 21, 90: 19  
**metabolism** - 16: 9  
**Midwood** - 42: 21  
**might** - 57: 13, 60: 11, 67: 10, 75: 6  
**military** - 32: 22, 88: 25  
**mind** - 12: 11, 12: 16, 18: 23, 23: 17, 28: 5, 35: 14, 35: 16, 45: 10, 45: 13, 45: 14, 55: 1, 56: 4, 63: 1, 70: 21, 80: 5, 81: 13, 85: 12, 100: 10, 118: 6  
**mindboggling** - 124: 17  
**minds** - 55: 21  
**mine** - 17: 21  
**Mineola** - 122: 24  
**minority** - 85: 15  
**minutes** - 4: 24, 5: 1, 43: 1, 74: 7, 82: 2, 87: 24  
**miscommunication** - 5: 6  
**misstate** - 55: 16  
**mistake** - 3: 8, 51: 21, 86: 2  
**misunderstood** - 50: 2  
**mm** - 58: 14, 59: 3, 71: 22, 98: 13, 118: 21  
**mmm** - 71: 22  
**Mmm** - 58: 14, 59: 3, 98: 13, 118: 21  
**mob** - 61: 22  
**mobs** - 19: 12  
**moment** - 12: 19, 12: 23, 19: 4, 24: 15, 63: 15  
**Monday** - 65: 5  
**money** - 57: 6, 90: 2, 92: 24, 93: 1, 93: 2, 93: 3, 93: 4, 93: 5, 93: 8, 93: 19  
**money-type** - 57: 6  
**months** - 88: 9, 89: 9, 121: 4  
**morals** - 20: 1  
**more** - 20: 1, 21: 5, 26: 8, 27: 21, 39: 14, 40: 7, 63: 4, 67: 2, 71: 16, 72: 24, 73: 23, 88: 5, 98: 19, 119: 13  
**Moriches** - 46: 7, 46: 10  
**morning** - 2: 2, 2: 14, 2: 19, 3: 8, 10: 7, 10: 8, 10: 13, 11: 6, 13: 21, 13: 22, 13: 23, 16: 1, 16: 2, 21: 21, 25: 8, 28: 9, 28: 10, 28: 14, 30: 13, 31: 25, 35: 3, 35: 4, 40: 16, 40: 18, 40: 21, 42: 17, 42: 18, 46: 2, 51: 6, 52: 7, 52: 8, 53: 22, 59: 11, 59: 12, 65: 4, 67: 17, 69: 11, 69: 12, 75: 13, 126: 2, 126: 3  
**Morning** - 48: 2  
**Most** - 124: 5  
**most** - 13: 7, 24: 24, 35: 21, 71: 16, 72: 4, 73: 23, 90: 6  
**mostly** - 46: 21  
**mother** - 11: 6, 72: 22, 123: 22  
**motion** - 77: 22  
**Motion** - 13: 8, 78: 5  
**motives** - 21: 4  
**move** - 13: 3, 68: 1, 68: 3, 68: 5, 87: 9, 97: 7, 117: 16  
**movie** - 70: 17  
**movies** - 70: 21, 73: 17  
**Mr** - 3: 3, 3: 7, 3: 9, 4: 18, 5: 20, 6: 9, 6: 12, 6: 25, 12: 23, 13: 3, 13: 10, 13: 18, 13: 19, 15: 9, 15: 23, 17: 15, 17: 17, 19: 4, 25: 4, 27: 8, 27: 10, 27: 15, 27: 18, 27: 23, 29: 24, 30: 9, 32: 12, 34: 19, 38: 15, 38: 20, 38: 21, 39: 5, 42: 3, 43: 3, 43: 9, 45: 22, 53: 5, 64: 14, 64: 17, 66: 19, 67: 3, 68: 18, 74: 4, 75: 9, 75: 11, 75: 17, 75: 19, 76: 4, 76: 10, 76: 14, 76: 17, 76: 18, 77: 1, 77: 5, 77: 8, 77: 10, 77: 11, 79: 15, 79: 16, 81: 6, 81: 8, 82: 20, 84: 9, 84: 11, 84: 16, 84: 17, 84: 18, 84: 20, 86: 11, 86: 12, 87: 2, 87: 6, 87: 9, 88: 24, 89: 7, 89: 12, 103: 3, 106: 15, 106: 23, 110: 25, 115: 2, 115: 3, 116: 24, 118: 25, 119: 22, 122: 6  
**Ms** - 2: 12, 2: 15, 2: 20, 3: 21, 3: 24, 4: 14, 5: 2, 5: 5, 5: 10, 5: 12, 5: 16, 5: 19, 10: 2, 10: 5, 12: 18, 12: 22, 13: 11, 15: 8, 15: 22, 17: 14, 20: 18, 20: 20, 25: 5, 27: 7, 29: 25, 30: 8, 34: 18, 39: 19, 42: 4, 51: 25,

64: 4, 64: 7, 64: 11, 64: 13, 66: 22, 68: 7, 68: 11, 68: 22, 69: 1, 75: 7, 76: 8, 76: 13, 76: 21, 76: 25, 77: 5, 77: 9, 77: 13, 77: 19, 81: 5, 81: 17, 89: 2, 90: 25, 99: 8, 107: 10, 119: 13, 122: 7, 125: 25  
**much** - 20: 1, 20: 11, 34: 11, 42: 6, 73: 23, 93: 7, 96: 25, 117: 4, 117: 9, 125: 19  
**multiple** - 32: 7  
**murder** - 17: 24, 27: 1, 79: 2, 82: 13, 85: 23, 104: 25, 108: 4, 124: 10  
**murdered** - 11: 2, 11: 13, 58: 7  
**murderer** - 112: 11  
**murders** - 56: 22, 67: 9  
**must** - 22: 24, 39: 21, 80: 23  
**my** - 10: 22, 11: 23, 12: 10, 15: 4, 17: 6, 18: 16, 18: 21, 21: 13, 22: 17, 23: 16, 23: 20, 23: 23, 26: 20, 27: 3, 29: 17, 31: 2, 35: 11, 37: 11, 37: 14, 37: 17, 37: 23, 38: 1, 38: 11, 39: 4, 39: 7, 39: 10, 39: 24, 43: 15, 44: 18, 45: 6, 45: 13, 46: 23, 46: 24, 50: 7, 50: 21, 53: 2, 55: 6, 56: 12, 60: 5, 60: 8, 60: 15, 61: 5, 61: 24, 62: 21, 66: 7, 68: 11, 70: 20, 71: 14, 72: 13, 72: 16, 72: 22, 73: 18, 73: 22, 76: 23, 77: 15, 78: 1, 79: 12, 81: 1, 82: 16, 84: 2, 84: 4, 86: 3, 86: 14, 88: 21, 90: 9, 90: 20, 93: 4, 93: 8, 93: 19, 95: 25, 96: 11, 96: 17, 96: 25, 98: 17, 99: 13, 100: 19, 100: 22, 101: 1, 102: 16, 102: 25, 104: 11, 104: 12, 104: 13, 105: 3, 105: 4, 105: 6, 106: 8, 108: 15, 108: 20, 109: 6, 109: 23, 113: 9, 114: 16, 114: 19, 114: 24, 116: 20, 118: 3, 118: 10, 119: 10, 120: 19, 123: 15, 124: 11, 124: 23, 125: 16  
**My** - 11: 1, 11: 7, 11: 20, 17: 23, 18: 4, 18: 21, 19: 22, 23: 4, 39: 16, 48: 22, 49: 9, 49: 11, 50: 9, 60: 16, 67: 6, 72: 2, 72: 22, 90: 9, 90: 12, 98: 4, 112: 9, 115: 23, 123: 22  
**myself** - 19: 23, 23: 20, 23: 21

## N

**N** - 75: 1, 82: 5, 89: 25  
**name** - 11: 24, 24: 21, 31: 23, 32: 1, 39: 14, 49: 8, 52: 21, 52: 23, 87: 12, 96: 1, 123: 10, 124: 7  
**names** - 2: 4, 11: 23, 12: 1, 32: 4, 57: 4  
**naming** - 57: 4  
**Nars** - 123: 10  
**Nassau** - 51: 9, 52: 19, 59: 16  
**National** - 31: 2, 31: 4, 31: 5, 33: 15  
**natural** - 91: 11  
**nature** - 67: 7, 67: 8  
**naval** - 122: 25  
**necessarily** - 39: 5, 39: 12, 93: 22, 94: 18  
**necessary** - 2: 25, 68: 13  
**necessity** - 2: 23  
**need** - 20: 9, 26: 9, 53: 14, 63: 17, 63: 19, 69: 4, 69: 7, 75: 25, 88: 5, 118: 11  
**needs** - 50: 15, 53: 10  
**neighbor** - 58: 7  
**neighborhood** - 12: 7, 53: 25  
**Nervous** - 91: 10  
**nervous** - 12: 5, 91: 12, 91: 15, 122: 16  
**Network** - 31: 3, 31: 5, 33: 15  
**networking** - 25: 20  
**Neuman** - 48: 2, 48: 16  
**never** - 21: 7, 26: 20, 43: 19, 71: 5, 103: 6, 112: 10, 112: 11, 116: 15  
**Nevertheless** - 96: 6  
**nevertheless** - 118: 3  
**New** - 1: 1, 1: 5, 1: 16, 1: 18, 1: 20, 1: 22, 11: 4, 11: 20, 11: 22, 12: 7, 41: 6, 50: 9, 50: 18, 60: 2, 62: 6, 78: 11, 85: 19, 85: 20, 92: 18, 97: 17, 101: 15, 101: 22, 104: 6, 120: 10  
**new** - 5: 21, 90: 1, 99: 20  
**News** - 62: 6, 62: 7, 96: 19

**news** - 54: 25  
**newspaper** - 27: 25, 28: 2, 63: 2  
**newspapers** - 58: 1, 63: 5, 63: 9, 63: 10, 96: 19, 96: 21  
**Next** - 21: 16, 34: 20, 34: 22, 40: 13, 42: 13, 69: 8, 79: 19, 81: 18, 119: 21  
**next** - 27: 16, 30: 10, 47: 16, 68: 22, 74: 11, 76: 3, 77: 7, 87: 7, 96: 23, 103: 19, 112: 21, 115: 8, 118: 25, 126: 4  
**Nice** - 13: 24, 80: 3  
**nice** - 28: 16, 28: 18, 35: 7, 52: 15, 60: 5  
**niece** - 33: 1, 33: 6, 91: 16  
**night** - 54: 24  
**Nine** - 6: 19, 7: 23  
**nine** - 50: 23  
**no** - 4: 20, 4: 22, 11: 3, 16: 18, 36: 22, 38: 12, 40: 1, 44: 8, 44: 9, 49: 23, 50: 2, 50: 4, 58: 9, 63: 8, 78: 4, 79: 4, 86: 1, 92: 17, 93: 1, 93: 2, 94: 2, 94: 5, 94: 21, 95: 10, 96: 9, 102: 6, 105: 2, 118: 22, 125: 9  
**No** - 2: 17, 3: 6, 10: 4, 10: 14, 12: 18, 12: 22, 14: 12, 14: 15, 15: 8, 15: 15, 15: 22, 15: 23, 17: 14, 19: 13, 25: 4, 25: 5, 26: 19, 26: 24, 27: 7, 27: 8, 28: 15, 29: 15, 29: 24, 29: 25, 31: 10, 31: 12, 32: 5, 32: 6, 32: 13, 33: 12, 34: 18, 34: 19, 36: 4, 36: 14, 37: 22, 38: 23, 40: 22, 41: 10, 41: 15, 41: 24, 42: 3, 42: 4, 43: 1, 43: 10, 44: 9, 44: 12, 49: 1, 49: 15, 49: 20, 49: 22, 51: 7, 51: 16, 51: 25, 53: 5, 54: 15, 57: 16, 62: 2, 62: 3, 62: 10, 62: 18, 63: 11, 65: 10, 68: 18, 68: 24, 69: 23, 70: 7, 71: 11, 76: 21, 78: 13, 78: 24, 79: 15, 80: 12, 81: 5, 81: 6, 82: 20, 83: 14, 83: 20, 84: 3, 84: 13, 84: 17, 86: 25, 87: 2, 88: 7, 88: 20, 89: 1, 89: 7, 89: 17, 90: 25, 92: 2, 97: 22, 99: 2, 99: 8, 99: 17, 99: 19, 100: 22, 101: 5, 102: 23, 103: 6, 104: 2, 106: 4, 106: 18, 106: 21, 106: 23, 107: 10, 108: 14, 108: 20, 110: 12, 110: 16, 110: 19, 110: 21, 112: 12, 113: 16, 114: 18, 116: 9, 119: 23, 121: 1, 121: 6, 121: 19, 121: 22, 122: 4, 122: 6, 122: 7, 122: 11, 125: 6  
**Nobody** - 24: 6, 24: 9  
**nobody** - 25: 14, 33: 25  
**None** - 26: 1  
**normally** - 77: 16  
**Norris** - 1: 14, 12: 23, 19: 4, 64: 17, 67: 3, 77: 5, 77: 10, 84: 16, 86: 12  
**Northport** - 26: 7  
**Northrup** - 59: 23  
**Nostra** - 80: 11, 81: 11  
**Nostrand** - 60: 2  
**Not** - 12: 5, 17: 20, 32: 25, 38: 7, 70: 4, 84: 1, 92: 17, 93: 14, 104: 15  
**not** - 2: 4, 4: 16, 10: 16, 10: 19, 12: 12, 13: 10, 15: 1, 17: 2, 18: 5, 18: 18, 19: 13, 21: 14, 22: 6, 22: 25, 23: 22, 24: 20, 26: 18, 28: 1, 29: 17, 29: 21, 31: 8, 31: 25, 33: 9, 33: 22, 36: 8, 38: 23, 39: 12, 40: 7, 40: 11, 42: 25, 46: 18, 49: 8, 50: 22, 55: 23, 59: 2, 60: 8, 60: 13, 60: 21, 61: 4, 62: 10, 62: 17, 63: 10, 63: 12, 64: 8, 67: 7, 67: 24, 71: 4, 71: 20, 75: 23, 77: 23, 80: 25, 82: 13, 84: 3, 84: 17, 86: 6, 86: 11, 90: 18, 93: 19, 94: 5, 94: 7, 95: 7, 95: 11, 97: 6, 102: 12, 103: 10, 104: 1, 104: 2, 104: 18, 104: 19, 105: 5, 105: 8, 105: 24, 105: 25, 106: 2, 106: 5, 106: 7, 108: 5, 114: 22, 117: 8, 117: 16, 118: 11, 118: 13, 118: 15, 118: 18, 119: 2, 119: 5, 119: 8, 124: 12, 125: 1, 125: 5, 125: 16  
**note** - 75: 2, 78: 1  
**notes** - 12: 25  
**Nothing** - 27: 11, 38: 20  
**nothing** - 11: 11, 13: 18, 19: 11, 56: 21, 77: 15  
**notice** - 22: 1  
**noticed** - 12: 3

|   |  |  |
|---|--|--|
| <p><b>notion</b> - 58: 17<br/> <b>notions</b> - 55: 6, 55: 7<br/> <b>November</b> - 78: 2, 78: 3, 88: 12<br/> <b>Now</b> - 10: 18, 10: 24, 14: 8, 16: 12, 16: 23, 26: 25, 35: 10, 40: 3, 41: 16, 44: 20, 123: 7<br/> <b>now</b> - 4: 12, 7: 1, 9: 25, 26: 8, 33: 4, 33: 9, 34: 12, 46: 22, 47: 5, 49: 9, 50: 21, 50: 23, 58: 18, 59: 21, 77: 11, 87: 10, 92: 1, 99: 18, 103: 21, 104: 1, 104: 2, 106: 17, 108: 19, 109: 5, 110: 7, 115: 10, 122: 21, 124: 1, 126: 2<br/> <b>number</b> - 5: 21, 5: 22, 6: 25, 30: 10, 45: 24, 48: 1, 50: 23, 52: 1, 52: 5, 53: 20, 58: 20, 63: 25, 64: 2, 67: 14, 68: 19, 69: 9, 75: 2, 75: 3, 75: 7, 75: 8, 75: 9, 75: 12, 75: 14, 75: 17, 76: 2, 78: 6, 79: 1, 79: 17, 79: 19, 81: 7, 81: 18, 82: 21, 84: 23, 84: 24, 87: 4, 87: 15, 89: 3, 89: 6, 91: 2, 91: 5, 95: 16, 97: 4, 97: 7, 100: 5, 101: 9, 103: 15, 103: 21, 106: 25, 107: 14, 107: 16, 108: 18, 108: 19, 108: 21, 111: 5, 111: 7, 112: 21, 115: 4, 115: 9, 115: 11, 115: 13, 115: 14, 117: 17, 117: 20<br/> <b>Number</b> - 3: 20, 6: 1, 6: 3, 6: 4, 6: 5, 6: 6, 6: 7, 6: 14, 6: 15, 6: 16, 6: 17, 6: 18, 6: 19, 6: 20, 6: 21, 6: 22, 7: 1, 7: 4, 7: 5, 7: 6, 7: 7, 7: 8, 7: 9, 7: 10, 7: 11, 7: 12, 7: 13, 7: 14, 7: 15, 7: 16, 7: 17, 7: 18, 7: 19, 7: 20, 7: 21, 7: 22, 7: 23, 7: 24, 7: 25, 8: 1, 8: 2, 8: 3, 8: 4, 8: 5, 8: 6, 8: 7, 8: 8, 8: 9, 8: 10, 8: 11, 8: 12, 8: 13, 8: 14, 8: 15, 8: 16, 8: 17, 8: 18, 8: 19, 8: 20, 8: 21, 8: 22, 8: 23, 8: 24, 8: 25, 9: 1, 9: 2, 9: 3, 9: 4, 9: 5, 9: 6, 9: 7, 9: 8, 9: 9, 9: 10, 9: 11, 9: 12, 9: 13, 9: 14, 9: 15, 9: 16, 9: 17, 9: 18, 9: 19, 9: 20, 9: 21, 9: 22, 13: 11, 13: 16, 15: 17, 15: 24, 21: 11, 21: 17, 25: 6, 28: 7, 40: 12, 42: 5, 42: 11, 42: 14, 45: 23, 47: 12, 47: 14, 51: 1, 60: 11, 82: 23, 86: 12, 97: 6, 108: 23, 109: 11, 112: 20, 113: 22, 117: 16, 126: 4<br/> <b>numbers</b> - 3: 22, 3: 23, 4: 23, 13: 1, 84: 20<br/> <b>Nypd</b> - 49: 10</p> | <p>81: 13, 82: 9, 82: 13, 83: 7, 84: 15, 85: 13, 85: 19, 85: 20, 85: 25, 86: 17, 86: 20, 86: 22, 87: 11, 88: 9, 89: 8, 90: 2, 90: 6, 91: 11, 91: 19, 92: 1, 93: 3, 93: 17, 93: 21, 93: 24, 94: 17, 95: 21, 95: 24, 96: 19, 98: 10, 98: 11, 100: 11, 100: 14, 101: 1, 102: 6, 102: 10, 102: 15, 103: 6, 103: 8, 104: 19, 105: 2, 105: 18, 106: 19, 108: 3, 109: 18, 109: 20, 111: 2, 112: 8, 113: 2, 114: 5, 114: 10, 114: 13, 115: 18, 115: 24, 116: 10, 116: 15, 116: 21, 117: 1, 117: 15, 118: 6, 119: 14, 120: 22, 121: 20, 122: 20, 122: 22, 123: 3, 123: 11, 124: 3, 124: 5, 124: 10, 124: 19, 124: 21, 125: 5, 125: 6, 126: 1<br/> <b>of</b> - 1: 1, 1: 3, 1: 9, 24: 9, 33: 18, 58: 8, 61: 3, 62: 1, 83: 23, 84: 7, 114: 21, 120: 7, 120: 20, 122: 18, 124: 1<br/> <b>off</b> - 41: 3, 72: 6, 82: 9, 101: 20<br/> <b>off-duty</b> - 82: 9<br/> <b>offense</b> - 26: 20<br/> <b>office</b> - 77: 18<br/> <b>officer</b> - 29: 9, 33: 9, 34: 4, 34: 8, 49: 10, 58: 6, 61: 8, 76: 17<br/> <b>Officers</b> - 61: 22<br/> <b>official</b> - 41: 19, 50: 14<br/> <b>officials</b> - 90: 10<br/> <b>often</b> - 72: 18, 90: 19<br/> <b>oh</b> - 10: 17, 32: 10, 32: 16, 36: 21, 41: 5, 44: 6, 50: 2, 62: 3<br/> <b>o j</b> - 83: 15<br/> <b>Okay</b> - 2: 15, 5: 19, 5: 25, 12: 15, 13: 15, 17: 16, 19: 2, 19: 21, 21: 23, 24: 25, 30: 1, 34: 13, 38: 13, 38: 19, 40: 2, 53: 23, 63: 13, 63: 16, 80: 2, 80: 9, 95: 14, 101: 7, 111: 12, 112: 24, 118: 23, 120: 1, 125: 8, 125: 19, 125: 23<br/> <b>okay</b> - 10: 5, 38: 7, 38: 8, 52: 10, 80: 4, 93: 16, 93: 18, 105: 16, 107: 21, 112: 3, 117: 6, 117: 9<br/> <b>old</b> - 5: 22, 10: 14, 31: 21<br/> <b>older</b> - 54: 16<br/> <b>on</b> - 24: 18, 30: 24, 31: 1, 68: 9, 99: 13, 102: 18, 108: 7<br/> <b>on</b> - 2: 10, 3: 15, 3: 24, 4: 9, 10: 16, 10: 19, 10: 22, 11: 4, 11: 23, 12: 3, 12: 10, 13: 5, 14: 19, 16: 12, 17: 1, 17: 3, 17: 24, 18: 24, 19: 24, 21: 13, 22: 14, 23: 2, 23: 16, 23: 22, 24: 2, 25: 22, 27: 3, 28: 2, 28: 4, 29: 17, 33: 3, 35: 7, 35: 11, 35: 16, 36: 24, 37: 4, 37: 16, 38: 21, 40: 10, 40: 21, 43: 15, 45: 8, 45: 11, 47: 16, 48: 18, 50: 10, 50: 12, 50: 18, 53: 1, 54: 25, 55: 2, 55: 5, 56: 4, 56: 5, 57: 14, 58: 17, 65: 4, 67: 12, 70: 19, 72: 12, 73: 3, 74: 11, 82: 16, 84: 6, 87: 10, 88: 8, 89: 20, 90: 2, 94: 24, 95: 11, 95: 12, 96: 2, 96: 17, 102: 5, 102: 12, 105: 9, 108: 4, 113: 9, 114: 16, 114: 19, 116: 20, 117: 2, 118: 4, 118: 7, 118: 25, 119: 15, 120: 6, 120: 17, 120: 21, 123: 12, 124: 15, 126: 1<br/> <b>Once</b> - 76: 2<br/> <b>once</b> - 95: 25<br/> <b>oncoming</b> - 123: 23<br/> <b>One</b> - 3: 20, 3: 24, 5: 13, 5: 14, 6: 1, 8: 12, 11: 18, 12: 23, 13: 11, 13: 14, 19: 4, 34: 3, 34: 7, 45: 18, 71: 8, 84: 9, 90: 7, 98: 10, 98: 11, 98: 18, 103: 3, 108: 10, 108: 11, 115: 25, 119: 13, 123: 11<br/> <b>one</b> - 2: 23, 3: 14, 6: 9, 10: 2, 13: 6, 24: 4, 26: 6, 31: 2, 33: 3, 41: 18, 48: 10, 57: 11, 67: 4, 68: 8, 81: 8, 83: 19, 83: 20, 84: 15, 90: 7, 92: 18, 96: 19, 98: 18, 100: 23, 108: 7, 115: 8, 126: 1<br/> <b>ones</b> - 48: 11, 104: 17, 104: 19<br/> <b>only</b> - 3: 18, 10: 19, 12: 10, 13: 16, 35: 16, 36: 24, 39: 25, 55: 3, 57: 14, 71: 14, 83: 17, 84: 6, 93: 10, 93: 11, 94: 9, 96: 3, 106: 12, 118: 7<br/> <b>onto</b> - 25: 15</p> | <p><b>open</b> - 76: 20, 99: 22, 116: 11, 116: 14<br/> <b>opened</b> - 99: 14<br/> <b>openly</b> - 66: 21<br/> <b>operates</b> - 117: 25<br/> <b>Operation</b> - 109: 19<br/> <b>opinion</b> - 39: 4, 98: 18, 104: 14, 117: 25, 119: 2<br/> <b>opinions</b> - 18: 21<br/> <b>opposed</b> - 39: 9, 39: 14<br/> <b>opposite</b> - 123: 9<br/> <b>or</b> - 2: 21, 12: 5, 12: 12, 14: 19, 17: 1, 18: 13, 19: 11, 19: 12, 22: 6, 28: 1, 29: 1, 31: 18, 33: 6, 34: 2, 38: 12, 39: 21, 39: 25, 40: 1, 49: 5, 49: 16, 49: 18, 50: 19, 51: 13, 51: 14, 54: 4, 56: 22, 59: 2, 60: 13, 64: 9, 65: 4, 65: 13, 67: 9, 67: 22, 72: 9, 72: 20, 73: 12, 73: 18, 75: 7, 77: 2, 77: 14, 78: 3, 80: 11, 81: 1, 81: 11, 81: 24, 94: 21, 98: 3, 98: 23, 102: 5, 106: 16, 108: 5, 110: 7, 110: 10, 111: 14, 120: 8, 121: 10, 121: 20, 124: 3, 124: 6, 124: 15, 124: 17, 124: 18, 124: 20, 125: 5, 126: 2<br/> <b>order</b> - 4: 3, 4: 21, 5: 18, 27: 21, 68: 13<br/> <b>ordinary</b> - 19: 8<br/> <b>organization</b> - 85: 14, 90: 11, 90: 17, 103: 9<br/> <b>organizations</b> - 85: 19, 86: 21, 110: 11<br/> <b>organized</b> - 22: 5, 22: 11, 23: 5, 23: 7, 23: 11, 23: 24, 24: 3, 35: 15, 35: 21, 39: 21, 58: 25, 60: 13, 61: 11, 70: 16, 81: 11, 94: 17, 103: 12, 111: 2, 117: 1<br/> <b>originally</b> - 11: 20<br/> <b>other</b> - 2: 19, 11: 22, 12: 17, 17: 2, 17: 13, 27: 1, 33: 13, 38: 14, 39: 18, 41: 17, 50: 9, 50: 19, 56: 20, 61: 14, 62: 2, 62: 3, 67: 6, 70: 22, 79: 3, 81: 4, 85: 21, 85: 24, 86: 21, 90: 7, 102: 13, 105: 1, 106: 14, 108: 10, 118: 7, 124: 10<br/> <b>otherwise</b> - 13: 10, 113: 7<br/> <b>Otherwise</b> - 62: 17, 80: 22, 95: 10<br/> <b>ought</b> - 63: 14<br/> <b>our</b> - 2: 24, 43: 11, 67: 18, 80: 19, 123: 11<br/> <b>ours</b> - 86: 11<br/> <b>out</b> - 3: 16, 4: 1, 5: 21, 6: 23, 11: 20, 12: 11, 18: 23, 23: 17, 25: 11, 27: 13, 29: 1, 30: 5, 35: 13, 35: 15, 39: 8, 40: 4, 45: 10, 45: 14, 45: 23, 49: 23, 53: 16, 55: 1, 55: 21, 56: 3, 59: 23, 63: 1, 63: 20, 68: 20, 70: 21, 80: 3, 81: 13, 90: 1, 91: 12, 91: 14, 102: 6, 109: 17, 118: 6, 124: 17<br/> <b>Out</b> - 89: 8<br/> <b>outside</b> - 10: 20, 12: 16, 12: 19, 23: 17, 35: 8, 35: 14, 38: 24, 66: 15, 89: 17, 106: 25, 107: 12<br/> <b>over</b> - 11: 16, 39: 9, 64: 24, 75: 23, 76: 6, 78: 1, 93: 17, 101: 24, 124: 8<br/> <b>overactive</b> - 16: 10<br/> <b>Overactive</b> - 16: 11<br/> <b>overcoat</b> - 25: 15<br/> <b>overkill</b> - 2: 25<br/> <b>overload</b> - 79: 10<br/> <b>overwhelm</b> - 3: 5<br/> <b>own</b> - 46: 23, 98: 17<br/> <b>owned</b> - 85: 15</p> |
| <p><b>O</b></p> <p><b>o</b> - 75: 1<br/> <b>o'clock</b> - 1: 6, 64: 9, 75: 22<br/> <b>object</b> - 2: 20, 20: 19, 89: 10, 89: 11<br/> <b>objection</b> - 12: 21, 20: 17, 25: 3, 34: 17, 66: 18, 89: 7<br/> <b>objections</b> - 15: 21, 27: 24, 39: 18<br/> <b>objective</b> - 23: 9<br/> <b>observation</b> - 21: 13<br/> <b>observed</b> - 82: 8<br/> <b>obtained</b> - 86: 14<br/> <b>obviously</b> - 39: 3, 63: 12<br/> <b>occurred</b> - 86: 23<br/> <b>ocean</b> - 41: 4<br/> <b>of</b> - 2: 3, 2: 8, 2: 16, 3: 6, 3: 14, 6: 23, 11: 21, 11: 24, 12: 11, 12: 25, 13: 6, 14: 20, 15: 4, 16: 15, 17: 21, 17: 24, 18: 19, 18: 21, 18: 23, 19: 14, 21: 3, 21: 13, 22: 4, 22: 10, 23: 7, 23: 9, 23: 17, 23: 23, 24: 3, 25: 18, 26: 14, 27: 1, 27: 15, 28: 23, 29: 4, 31: 8, 32: 1, 32: 14, 33: 16, 33: 22, 34: 3, 34: 7, 35: 14, 35: 15, 35: 16, 36: 24, 37: 3, 37: 18, 38: 3, 39: 16, 39: 20, 41: 18, 42: 21, 43: 7, 43: 11, 43: 21, 43: 24, 44: 1, 44: 7, 44: 23, 45: 2, 45: 10, 45: 14, 46: 7, 46: 18, 46: 20, 47: 8, 49: 17, 50: 14, 51: 14, 52: 11, 53: 10, 54: 19, 55: 1, 55: 4, 55: 21, 56: 3, 56: 12, 56: 15, 56: 22, 57: 6, 57: 25, 58: 2, 58: 4, 58: 17, 58: 25, 59: 23, 60: 2, 60: 3, 60: 4, 60: 13, 63: 1, 66: 1, 66: 23, 66: 24, 67: 5, 67: 7, 67: 8, 67: 9, 67: 18, 69: 6, 69: 24, 70: 21, 71: 1, 72: 4, 72: 13, 72: 19, 73: 5, 73: 14, 76: 16, 77: 16, 77: 24, 78: 1, 78: 24, 79: 4, 79: 10, 80: 3, 80: 4, 80: 7, 80: 21,</p>  |  | <p><b>P</b></p> <p><b>pack</b> - 61: 22<br/> <b>page</b> - 47: 16, 62: 6, 74: 11, 118: 25<br/> <b>paper</b> - 24: 19, 60: 21, 63: 4, 96: 23<br/> <b>papers</b> - 13: 2, 35: 14, 62: 9, 105: 24, 106: 3<br/> <b>paralegal</b> - 2: 24<br/> <b>paralegals</b> - 49: 17<br/> <b>Pardon</b> - 52: 12, 64: 12<br/> <b>parking</b> - 85: 10<br/> <b>parole</b> - 76: 16, 76: 17<br/> <b>part</b> - 23: 7, 23: 9, 24: 3, 125: 5<br/> <b>participated</b> - 56: 21</p>   |

|  |   |   |
|--|---|---|
| <p>particular - 57: 19, 57: 23<br/> parties - 4: 4, 4: 6, 4: 16, 16: 17<br/> partly - 104: 8<br/> passed - 72: 22<br/> past - 118: 15, 118: 18<br/> patients - 26: 5<br/> Pause - 6: 13, 9: 23, 12: 24, 15: 12,<br/> 19: 5, 19: 7, 33: 14, 34: 25, 75: 20, 76: 12,<br/> 97: 5, 103: 20, 107: 15, 119: 1<br/> pay - 102: 11<br/> pays - 85: 17<br/> Penn - 83: 12<br/> Pennsylvania - 48: 17<br/> people - 3: 12, 5: 17, 11: 21, 11: 24,<br/> 24: 24, 36: 11, 39: 11, 47: 8, 54: 19, 55: 20,<br/> 60: 3, 70: 22, 73: 5, 73: 15, 93: 10, 93: 11,<br/> 94: 23, 102: 15, 117: 15, 122: 19<br/> people's - 55: 18<br/> percent - 24: 5, 24: 9, 66: 7, 66: 9,<br/> 66: 10, 66: 11, 66: 12, 66: 13, 66: 25<br/> perfectly - 63: 7, 117: 14<br/> person - 3: 15, 16: 18, 19: 9, 20: 13,<br/> 23: 21, 28: 1, 38: 3, 38: 6, 39: 20, 46: 18,<br/> 46: 20, 50: 14, 72: 24, 80: 13, 93: 21,<br/> 94: 16, 95: 1, 95: 7, 95: 9, 115: 24, 124: 14<br/> person's - 102: 12<br/> personal - 15: 14, 17: 18, 18: 21, 18: 23,<br/> 19: 22, 45: 18, 102: 22<br/> personally - 17: 20, 19: 14, 21: 8<br/> personnel - 49: 19, 51: 18<br/> ph - 123: 10<br/> Philadelphia - 49: 10<br/> photographs - 73: 12, 73: 14<br/> pick - 63: 3<br/> picture - 61: 25, 69: 25, 96: 23<br/> pictures - 73: 4, 73: 19, 73: 21<br/> pinpoint - 105: 8<br/> place - 4: 11, 11: 7, 115: 13, 121: 4<br/> places - 27: 20<br/> planning - 24: 20<br/> play - 48: 6, 48: 13<br/> plays - 71: 2<br/> Plaza - 1: 15, 1: 22, 83: 12<br/> Please - 62: 19<br/> please - 9: 24, 27: 9, 27: 12, 30: 1,<br/> 30: 13, 38: 24, 40: 1, 64: 20, 66: 15, 74: 8,<br/> 78: 6, 95: 19, 107: 4, 122: 13<br/> plenty - 29: 4<br/> plus - 69: 5<br/> point - 3: 16, 28: 4, 31: 2, 58: 18, 67: 4,<br/> 119: 4<br/> points - 27: 16<br/> Police - 41: 7, 41: 12, 50: 19<br/> police - 17: 25, 41: 16, 41: 17, 49: 9,<br/> 113: 12, 115: 25, 116: 1, 116: 21, 117: 15<br/> policeman - 123: 7, 123: 8<br/> policemen - 43: 10, 124: 5<br/> policeperson - 41: 21<br/> polite - 39: 12, 39: 17<br/> ponytail - 45: 7<br/> Port - 85: 19, 86: 23<br/> Porter - 83: 8, 83: 9<br/> position - 48: 8, 99: 14, 99: 21, 99: 24<br/> possession - 26: 14, 77: 14, 77: 15<br/> Possession - 98: 7<br/> possible - 34: 3, 34: 7, 55: 17<br/> possibly - 21: 14, 57: 11, 124: 21<br/> Post - 76: 25<br/> post - 11: 5<br/> Post-release - 76: 25<br/> Postal - 28: 24<br/> potential - 41: 21, 68: 25<br/> preconceived - 55: 6, 55: 7, 58: 16<br/> present - 2: 21, 48: 1, 76: 11, 84: 4,<br/> 97: 21, 109: 23, 112: 14, 113: 8, 116: 18<br/> president - 86: 20, 95: 24<br/> presume - 103: 11<br/> presumed - 22: 20, 24: 12, 35: 24, 36: 3,<br/> 38: 17, 44: 10, 55: 9, 62: 12, 71: 18, 80: 14,<br/> 93: 22, 94: 18, 105: 13, 105: 21, 114: 3,</p> | <p>125: 11<br/> Pretty - 55: 25<br/> pretty - 35: 8, 37: 25, 42: 24, 65: 19,<br/> 123: 18<br/> prevalent - 56: 19<br/> prevent - 71: 13<br/> previously - 14: 8, 55: 23, 77: 21<br/> principle - 56: 7, 56: 11<br/> principled - 56: 9<br/> principles - 71: 23<br/> printed - 58: 1<br/> prior - 20: 4, 27: 24<br/> prison - 121: 4<br/> private - 53: 12<br/> probability - 24: 10<br/> probable - 37: 12<br/> Probably - 25: 14, 46: 17, 49: 25, 79: 11,<br/> 87: 24<br/> probably - 25: 15, 35: 21, 58: 12, 58: 20,<br/> 59: 2, 64: 9, 69: 6, 75: 25, 78: 3, 79: 9,<br/> 125: 17<br/> probation - 100: 18<br/> probed - 67: 6<br/> problem - 10: 24, 27: 25, 64: 15, 67: 24,<br/> 94: 3, 94: 22<br/> problems - 41: 11, 71: 16, 72: 21,<br/> 72: 24, 73: 2, 73: 8<br/> procedure - 11: 21<br/> proceedings - 3: 10<br/> Proceedings - 1: 25<br/> process - 26: 5<br/> produced - 1: 25<br/> professionally - 48: 13<br/> profile - 56: 6<br/> program - 99: 11<br/> programmer - 91: 23<br/> Programmer - 91: 24<br/> project - 85: 13<br/> projects - 85: 13<br/> proof - 44: 8, 44: 9, 119: 14<br/> proper - 80: 18<br/> property - 86: 24<br/> prosecuted - 98: 3, 120: 21<br/> prosecution - 115: 18<br/> prosecutors - 49: 18, 88: 6<br/> Prospect - 30: 20<br/> Prospective - 10: 6, 10: 8, 10: 10,<br/> 10: 14, 10: 17, 10: 21, 10: 23, 11: 1, 11: 11,<br/> 11: 18, 12: 2, 12: 8, 12: 14, 12: 20, 13: 20,<br/> 13: 22, 13: 25, 14: 4, 14: 7, 14: 9, 14: 12,<br/> 14: 15, 14: 21, 14: 23, 15: 1, 15: 6, 15: 15,<br/> 15: 20, 15: 25, 16: 2, 16: 4, 16: 6, 16: 8,<br/> 16: 10, 16: 16, 16: 20, 16: 22, 17: 5, 17: 7,<br/> 17: 10, 17: 20, 17: 23, 18: 10, 18: 14,<br/> 18: 17, 18: 25, 19: 10, 19: 13, 19: 17,<br/> 19: 22, 20: 5, 20: 9, 20: 12, 20: 15, 20: 16,<br/> 21: 18, 21: 20, 21: 23, 21: 25, 22: 2, 22: 16,<br/> 22: 19, 22: 22, 23: 1, 23: 4, 23: 18, 24: 7,<br/> 24: 13, 24: 18, 25: 1, 25: 2, 25: 7, 25: 10,<br/> 25: 13, 25: 20, 25: 22, 26: 1, 26: 4, 26: 7,<br/> 26: 9, 26: 11, 26: 16, 26: 19, 26: 24, 27: 2,<br/> 27: 5, 27: 14, 28: 8, 28: 10, 28: 12, 28: 15,<br/> 28: 17, 28: 22, 28: 24, 29: 3, 29: 5, 29: 8,<br/> 29: 10, 29: 12, 29: 15, 29: 19, 29: 22, 30: 3,<br/> 30: 4, 30: 12, 30: 14, 30: 16, 30: 18, 30: 20,<br/> 30: 23, 30: 25, 31: 5, 31: 10, 31: 12, 31: 17,<br/> 31: 19, 31: 21, 31: 23, 32: 3, 32: 6, 32: 9,<br/> 32: 11, 32: 13, 32: 16, 32: 21, 32: 25, 33: 3,<br/> 33: 8, 33: 12, 33: 17, 33: 20, 33: 24, 34: 6,<br/> 34: 10, 34: 13, 34: 15, 34: 16, 35: 2, 35: 4,<br/> 35: 6, 35: 8, 35: 12, 35: 18, 35: 20, 35: 25,<br/> 36: 4, 36: 9, 36: 14, 36: 16, 36: 21, 37: 1,<br/> 37: 6, 37: 9, 37: 11, 37: 14, 37: 17, 37: 19,<br/> 37: 22, 38: 1, 38: 4, 38: 7, 38: 11, 38: 13,<br/> 38: 18, 38: 25, 39: 1, 40: 15, 40: 17, 40: 19,<br/> 40: 22, 40: 24, 41: 1, 41: 5, 41: 8, 41: 10,<br/> 41: 15, 41: 20, 41: 22, 41: 24, 42: 1, 42: 6,<br/> 42: 9, 42: 16, 42: 18, 42: 21, 42: 23, 43: 1,<br/> 43: 4, 43: 6, 43: 10, 43: 16, 43: 20, 43: 23,<br/> 44: 3, 44: 6, 44: 9, 44: 12, 44: 15, 44: 17,</p> | <p>44: 19, 44: 22, 44: 25, 45: 4, 45: 12, 45: 15,<br/> 45: 17, 46: 1, 46: 3, 46: 5, 46: 7, 46: 11,<br/> 46: 16, 46: 20, 46: 23, 47: 1, 47: 4, 47: 7,<br/> 47: 10, 47: 13, 48: 3, 48: 5, 48: 7, 48: 9,<br/> 48: 12, 48: 14, 48: 16, 48: 20, 48: 22, 49: 1,<br/> 49: 3, 49: 7, 49: 9, 49: 15, 49: 20, 49: 22,<br/> 49: 24, 50: 2, 50: 5, 50: 7, 50: 13, 50: 17,<br/> 50: 20, 51: 4, 51: 7, 51: 9, 51: 12, 51: 16,<br/> 51: 19, 51: 21, 52: 3, 52: 8, 52: 10, 52: 13,<br/> 52: 16, 52: 19, 52: 22, 52: 25, 53: 3, 53: 6,<br/> 53: 9, 53: 12, 53: 15, 53: 18, 53: 23, 54: 1,<br/> 54: 3, 54: 6, 54: 8, 54: 10, 54: 12, 54: 15,<br/> 54: 18, 54: 22, 54: 24, 55: 3, 55: 10, 55: 13,<br/> 55: 15, 55: 17, 55: 19, 55: 22, 56: 1, 56: 5,<br/> 56: 8, 56: 10, 56: 12, 56: 18, 56: 25, 57: 2,<br/> 57: 5, 57: 8, 57: 10, 57: 16, 57: 21, 57: 24,<br/> 58: 4, 58: 6, 58: 14, 58: 16, 58: 22, 59: 3,<br/> 59: 5, 59: 7, 59: 12, 59: 14, 59: 16, 59: 18,<br/> 59: 20, 59: 22, 60: 1, 60: 7, 60: 10, 60: 15,<br/> 60: 20, 60: 24, 61: 2, 61: 5, 61: 8, 61: 10,<br/> 61: 13, 61: 16, 61: 18, 61: 21, 61: 24, 62: 2,<br/> 62: 4, 62: 10, 62: 13, 62: 16, 62: 18, 62: 20,<br/> 62: 22, 62: 25, 63: 3, 63: 7, 63: 11, 63: 16,<br/> 63: 19, 63: 21, 64: 24, 65: 2, 65: 7, 65: 10,<br/> 65: 14, 65: 17, 65: 22, 66: 2, 66: 4, 66: 7,<br/> 66: 10, 66: 14, 66: 16, 67: 20, 67: 24, 68: 2,<br/> 68: 5, 68: 9, 68: 14, 68: 16, 69: 12, 69: 14,<br/> 69: 16, 69: 19, 69: 21, 69: 23, 69: 25, 70: 4,<br/> 70: 7, 70: 10, 70: 14, 70: 17, 70: 23, 70: 25,<br/> 71: 2, 71: 4, 71: 8, 71: 11, 71: 14, 71: 22,<br/> 71: 24, 72: 2, 72: 11, 72: 14, 72: 16, 72: 18,<br/> 72: 21, 73: 4, 73: 7, 73: 11, 73: 16, 73: 20,<br/> 73: 22, 73: 25, 78: 9, 78: 11, 78: 13, 78: 15,<br/> 78: 18, 78: 20, 78: 24, 79: 6, 79: 9, 79: 13,<br/> 79: 22, 79: 25, 80: 2, 80: 5, 80: 9, 80: 12,<br/> 80: 17, 80: 20, 80: 24, 81: 3, 81: 12, 81: 15,<br/> 81: 21, 81: 23, 81: 25, 82: 2, 82: 4, 82: 7,<br/> 82: 11, 82: 15, 82: 18, 83: 1, 83: 5, 83: 8,<br/> 83: 10, 83: 12, 83: 14, 83: 17, 83: 20,<br/> 83: 23, 84: 1, 84: 5, 84: 7, 84: 13, 85: 2,<br/> 85: 4, 85: 6, 85: 8, 85: 10, 85: 14, 85: 18,<br/> 86: 2, 86: 4, 86: 8, 86: 16, 86: 19, 86: 25,<br/> 87: 18, 87: 20, 87: 22, 87: 24, 88: 1, 88: 4,<br/> 88: 7, 88: 9, 88: 12, 88: 15, 88: 17, 88: 20,<br/> 88: 22, 89: 1, 89: 4, 89: 15, 89: 17, 89: 20,<br/> 89: 23, 89: 25, 90: 3, 90: 6, 90: 9, 90: 12,<br/> 90: 14, 90: 16, 90: 18, 90: 23, 91: 3, 91: 8,<br/> 91: 10, 91: 13, 91: 15, 91: 18, 91: 21,<br/> 91: 23, 91: 25, 92: 2, 92: 4, 92: 7, 92: 9,<br/> 92: 12, 92: 14, 92: 17, 92: 20, 92: 22,<br/> 92: 24, 93: 4, 93: 6, 93: 8, 93: 10, 93: 14,<br/> 93: 23, 94: 2, 94: 4, 94: 11, 94: 13, 94: 15,<br/> 94: 21, 94: 23, 95: 1, 95: 5, 95: 7, 95: 10,<br/> 95: 14, 95: 21, 95: 24, 96: 4, 96: 8, 96: 11,<br/> 96: 17, 96: 22, 97: 2, 97: 10, 97: 12, 97: 16,<br/> 97: 19, 97: 22, 97: 25, 98: 4, 98: 6, 98: 8,<br/> 98: 10, 98: 13, 98: 15, 98: 17, 98: 20,<br/> 98: 22, 99: 2, 99: 6, 99: 10, 99: 13, 99: 17,<br/> 99: 19, 99: 21, 99: 25, 100: 3, 100: 8,<br/> 100: 13, 100: 16, 100: 19, 100: 22,<br/> 100: 25, 101: 3, 101: 5, 101: 7, 101: 12,<br/> 101: 14, 101: 17, 101: 21, 102: 1, 102: 8,<br/> 102: 10, 102: 17, 102: 19, 102: 23, 103: 1,<br/> 103: 6, 103: 10, 103: 13, 103: 16, 103: 25,<br/> 104: 2, 104: 4, 104: 6, 104: 8, 104: 11,<br/> 104: 15, 104: 17, 104: 22, 105: 4, 105: 15,<br/> 105: 17, 105: 23, 106: 1, 106: 9, 106: 12,<br/> 106: 18, 106: 21, 107: 6, 107: 8, 107: 21,<br/> 107: 24, 108: 2, 108: 4, 108: 7, 108: 9,<br/> 108: 14, 108: 16, 108: 19, 109: 1, 109: 4,<br/> 109: 9, 109: 14, 109: 17, 109: 19, 109: 21,<br/> 109: 23, 109: 25, 110: 2, 110: 4, 110: 6,<br/> 110: 8, 110: 12, 110: 14, 110: 16, 110: 19,<br/> 110: 21, 110: 23, 111: 4, 111: 10, 111: 12,<br/> 111: 15, 111: 18, 111: 20, 111: 22, 112: 1,<br/> 112: 3, 112: 6, 112: 9, 112: 12, 112: 15,<br/> 112: 18, 112: 24, 113: 1, 113: 4, 113: 6,<br/> 113: 11, 113: 14, 113: 16, 113: 18,<br/> 113: 20, 114: 1, 114: 4, 114: 7, 114: 12,<br/> 114: 15, 114: 18, 114: 21, 114: 25, 115: 5,</p> |
|--|---|---|

|   |  |   |   |   |  |
|---|--|---|---|---|--|
| <p>115: 7, 115: 12, 115: 17, 115: 20, 115: 23, 116: 4, 116: 7, 116: 9, 116: 12, 116: 14, 116: 19, 116: 22, 117: 3, 117: 6, 117: 11, 117: 21, 117: 23, 118: 2, 118: 5, 118: 9, 118: 14, 118: 17, 118: 21, 118: 23, 119: 7, 119: 9, 119: 11, 119: 16, 119: 19, 119: 20, 119: 24, 120: 1, 120: 4, 120: 7, 120: 10, 120: 12, 120: 14, 120: 16, 120: 20, 120: 23, 121: 1, 121: 3, 121: 6, 121: 9, 121: 11, 121: 15, 121: 17, 121: 19, 121: 22, 121: 25, 122: 4, 122: 10, 122: 12, 122: 15, 122: 17, 122: 21, 123: 2, 123: 4, 123: 15, 123: 18, 123: 20, 124: 1, 124: 5, 124: 12, 124: 23, 125: 3, 125: 8, 125: 12, 125: 15, 125: 21, 125: 22</p> <p><b>prove</b> - 36: 19, 44: 13, 55: 11, 62: 14, 93: 25, 95: 3, 105: 12, 117: 1, 125: 2</p> <p><b>proved</b> - 36: 5, 36: 6, 105: 19</p> <p><b>proven</b> - 45: 1, 80: 15</p> <p><b>proves</b> - 22: 24, 71: 19, 94: 19</p> <p><b>provides</b> - 85: 14</p> <p><b>proving</b> - 80: 22, 114: 6, 114: 10</p> <p><b>public</b> - 85: 21, 91: 17</p> <p><b>purpose</b> - 76: 15</p> <p><b>purposes</b> - 3: 1</p> <p><b>pursuant</b> - 77: 22</p> <p><b>pushed</b> - 124: 14, 124: 18, 124: 20</p> <p><b>put</b> - 11: 18, 12: 11, 16: 25, 18: 15, 18: 22, 20: 3, 21: 9, 23: 16, 27: 13, 32: 14, 35: 13, 35: 15, 45: 10, 45: 14, 49: 23, 55: 1, 55: 21, 56: 3, 60: 18, 63: 1, 70: 21, 72: 9, 72: 14, 78: 2, 78: 14, 81: 13, 85: 9, 96: 18, 105: 5, 107: 12, 118: 6, 125: 16</p> <p><b>Putting</b> - 18: 18</p> <p><b>putting</b> - 5: 7</p> | <p><b>Q</b></p> <p><b>Queens</b> - 54: 1, 85: 6, 86: 20, 87: 20, 108: 10</p> <p><b>Question</b> - 16: 12, 22: 3, 79: 1</p> <p><b>question</b> - 5: 2, 10: 3, 14: 16, 17: 15, 19: 19, 20: 8, 23: 18, 24: 15, 31: 1, 37: 13, 38: 21, 38: 23, 39: 2, 39: 6, 39: 12, 49: 24, 50: 3, 51: 13, 51: 17, 58: 23, 67: 3, 67: 11, 70: 21, 72: 7, 77: 19, 81: 8, 84: 10, 85: 22, 86: 9, 102: 2, 104: 24, 114: 8, 124: 13</p> <p><b>questionnaire</b> - 3: 25, 31: 1, 75: 3, 83: 7, 85: 12, 96: 18</p> <p><b>Questionnaire</b> - 75: 8, 75: 10</p> <p><b>questionnaires</b> - 13: 1, 87: 13</p> <p><b>questions</b> - 12: 17, 13: 19, 15: 10, 15: 11, 17: 13, 17: 17, 19: 3, 21: 1, 21: 6, 25: 18, 28: 19, 29: 23, 33: 13, 38: 14, 39: 9, 39: 14, 42: 2, 47: 11, 51: 24, 53: 4, 64: 14, 68: 17, 78: 16, 79: 10, 79: 14, 81: 4, 82: 19, 84: 8, 85: 11, 87: 1, 87: 14, 88: 23, 90: 24, 97: 13, 99: 7, 100: 10, 102: 20, 106: 14, 107: 9, 108: 17, 109: 2, 111: 11, 112: 16, 112: 25, 113: 19, 115: 1, 116: 23, 118: 24</p> <p><b>quick</b> - 74: 6</p> <p><b>quickly</b> - 68: 3</p> <p><b>Quirk</b> - 84: 12, 84: 14, 95: 21, 96: 5, 96: 16</p> <p><b>quirk</b> - 84: 12, 95: 20</p> <p><b>quite</b> - 51: 23, 105: 17</p> | <p><b>R</b></p> <p><b>R</b> - 75: 1, 82: 4, 89: 25, 101: 18</p> <p><b>racing</b> - 109: 6</p> <p><b>racketeering</b> - 27: 1, 79: 2, 85: 23, 104: 25, 124: 10</p> <p><b>Radio</b> - 123: 6</p> <p><b>raided</b> - 98: 8</p> <p><b>Railroad</b> - 59: 24, 83: 13</p> <p><b>railroad</b> - 51: 11, 54: 4, 59: 19, 78: 12</p> <p><b>rain</b> - 29: 5</p> <p><b>raise</b> - 77: 7</p> <p><b>raised</b> - 10: 16</p> | <p><b>ran</b> - 3: 9, 98: 24</p> <p><b>random</b> - 4: 7, 10: 1</p> <p><b>rape</b> - 17: 24</p> <p><b>raped</b> - 111: 24</p> <p><b>rather</b> - 39: 6, 120: 5</p> <p><b>reached</b> - 77: 6</p> <p><b>reaching</b> - 118: 12</p> <p><b>reaction</b> - 73: 22, 113: 5</p> <p><b>read</b> - 24: 20, 24: 23, 27: 25, 28: 2, 29: 21, 35: 14, 49: 16, 58: 17, 60: 21, 62: 9, 63: 2, 63: 4, 63: 5, 63: 9, 63: 10, 63: 12, 80: 10, 81: 1, 96: 18, 103: 4, 105: 24, 105: 25, 106: 3, 106: 4</p> <p><b>reading</b> - 24: 19, 69: 15</p> <p><b>ready</b> - 34: 24</p> <p><b>real</b> - 19: 25</p> <p><b>realize</b> - 11: 19</p> <p><b>realized</b> - 3: 13, 24: 23</p> <p><b>really</b> - 11: 19, 32: 4, 66: 5, 79: 6, 84: 1, 88: 5, 90: 19, 92: 17, 93: 14, 94: 5, 94: 7, 104: 15, 122: 1, 124: 19</p> <p><b>Really</b> - 69: 21, 98: 12</p> <p><b>reason</b> - 11: 3, 60: 17</p> <p><b>reasonable</b> - 22: 24, 36: 7, 36: 19, 44: 14, 55: 12, 62: 15, 71: 20, 80: 16, 80: 22, 93: 25, 94: 20, 95: 4, 105: 13, 114: 6, 114: 10, 117: 2, 119: 14, 125: 2</p> <p><b>reasons</b> - 119: 6</p> <p><b>recall</b> - 43: 25, 76: 23, 76: 24</p> <p><b>recalled</b> - 11: 23</p> <p><b>received</b> - 100: 17</p> <p><b>recently</b> - 72: 23, 82: 8</p> <p><b>Receptionist</b> - 111: 18</p> <p><b>recess</b> - 74: 10</p> <p><b>Recess</b> - 5: 24</p> <p><b>recognize</b> - 64: 22, 96: 22</p> <p><b>recognized</b> - 64: 18</p> <p><b>record</b> - 20: 21, 77: 1, 77: 2</p> <p><b>recorded</b> - 1: 25</p> <p><b>records</b> - 18: 1, 76: 16, 76: 19, 77: 17, 77: 18</p> <p><b>Rector</b> - 101: 21</p> <p><b>reduced</b> - 14: 17, 102: 3, 102: 12</p> <p><b>reference</b> - 2: 9</p> <p><b>referred</b> - 24: 22</p> <p><b>referring</b> - 24: 20</p> <p><b>refused</b> - 39: 2</p> <p><b>regarding</b> - 92: 24</p> <p><b>relationship</b> - 90: 8</p> <p><b>relative</b> - 17: 21, 18: 13, 32: 19</p> <p><b>relatives</b> - 73: 8, 90: 4</p> <p><b>release</b> - 76: 25</p> <p><b>released</b> - 2: 24</p> <p><b>reliable</b> - 10: 15</p> <p><b>religious</b> - 110: 10</p> <p><b>rely</b> - 113: 9</p> <p><b>remember</b> - 16: 13, 31: 22, 31: 23, 31: 24, 32: 1, 32: 2, 32: 3, 32: 16, 58: 2, 58: 8, 58: 10, 58: 22, 72: 3, 72: 6, 79: 6</p> <p><b>remind</b> - 27: 18</p> <p><b>remove</b> - 74: 5</p> <p><b>render</b> - 14: 19, 102: 5</p> <p><b>repeat</b> - 36: 14, 37: 1, 114: 7</p> <p><b>repeatedly</b> - 39: 20, 39: 23</p> <p><b>repeating</b> - 77: 19</p> <p><b>Reporter</b> - 1: 21</p> <p><b>required</b> - 2: 18</p> <p><b>requires</b> - 66: 1</p> <p><b>resentment</b> - 106: 19</p> <p><b>reshuffled</b> - 9: 25</p> <p><b>resign</b> - 41: 10, 41: 11</p> <p><b>resolution</b> - 77: 6, 77: 8</p> <p><b>respect</b> - 2: 9, 18: 20, 20: 23, 41: 16, 41: 19</p> <p><b>respectfully</b> - 21: 10, 40: 3</p> <p><b>responded</b> - 51: 18</p> <p><b>response</b> - 62: 18, 114: 18</p> <p><b>responses</b> - 28: 20, 40: 7</p> <p><b>restaurant</b> - 12: 3</p> <p><b>Restaurant</b> - 110: 2, 110: 3</p> | <p><b>Retail</b> - 109: 21</p> <p><b>retired</b> - 59: 22</p> <p><b>returned</b> - 93: 11</p> <p><b>Returning</b> - 26: 11</p> <p><b>reveal</b> - 2: 4</p> <p><b>reversed</b> - 18: 2</p> <p><b>review</b> - 78: 1</p> <p><b>rich</b> - 70: 5</p> <p><b>Rico</b> - 31: 16</p> <p><b>ride</b> - 42: 24, 42: 25, 46: 11</p> <p><b>Ridge</b> - 81: 23</p> <p><b>right</b> - 4: 25, 5: 8, 5: 9, 5: 10, 5: 11, 5: 12, 6: 11, 10: 20, 10: 22, 14: 8, 15: 16, 17: 12, 18: 13, 25: 10, 29: 6, 31: 20, 33: 4, 35: 17, 36: 21, 37: 7, 37: 21, 41: 14, 42: 5, 44: 7, 44: 14, 47: 12, 51: 23, 58: 18, 62: 16, 65: 4, 65: 15, 66: 1, 88: 21, 97: 15, 101: 22, 103: 25, 104: 1, 106: 9, 109: 1, 118: 13, 119: 5, 122: 8, 125: 5</p> <p><b>Right</b> - 36: 16, 38: 4, 44: 15, 44: 22, 44: 25, 57: 21, 66: 14, 67: 21, 78: 15, 109: 5, 118: 14, 119: 7, 122: 21, 124: 1</p> <p><b>rights</b> - 33: 17</p> <p><b>rie</b> - 55: 18</p> <p><b>robbed</b> - 121: 16</p> <p><b>robbery</b> - 108: 11</p> <p><b>Roger</b> - 1: 13</p> <p><b>room</b> - 2: 1, 2: 21, 5: 1, 6: 24, 10: 6, 12: 20, 13: 20, 15: 20, 15: 25, 20: 16, 21: 18, 64: 19, 64: 22, 66: 24, 122: 19</p> <p><b>roommate</b> - 49: 9</p> <p><b>Rose</b> - 85: 6</p> <p><b>round</b> - 68: 23</p> <p><b>routine</b> - 25: 25</p> <p><b>rule</b> - 24: 2, 45: 2, 45: 3, 86: 5, 105: 16</p> <p><b>ruled</b> - 28: 4</p> <p><b>rules</b> - 114: 14</p> <p><b>ruling</b> - 24: 22, 77: 23, 77: 24</p> <p><b>run</b> - 46: 23, 106: 6</p> <p><b>runners</b> - 57: 6</p> | <p><b>S</b></p> <p><b>s</b> - 75: 1</p> <p><b>sad</b> - 54: 18</p> <p><b>safety</b> - 3: 1</p> <p><b>said</b> - 3: 10, 11: 12, 16: 14, 16: 21, 19: 20, 20: 21, 21: 7, 21: 8, 22: 7, 39: 20, 39: 24, 40: 1, 40: 2, 43: 12, 43: 17, 43: 19, 43: 20, 43: 22, 43: 24, 43: 25, 51: 17, 61: 13, 64: 11, 64: 13, 64: 15, 66: 25, 75: 3, 77: 6, 79: 4, 79: 7, 93: 1, 109: 5, 124: 7</p> <p><b>sales</b> - 115: 24</p> <p><b>same</b> - 11: 24, 56: 7, 56: 11, 87: 12</p> <p><b>sandwich</b> - 74: 6</p> <p><b>Sanford</b> - 122: 24</p> <p><b>saw</b> - 24: 19, 24: 20, 24: 21, 24: 22, 64: 25, 65: 3, 124: 6</p> <p><b>Say</b> - 34: 6</p> <p><b>say</b> - 3: 11, 6: 23, 12: 5, 13: 5, 19: 8, 19: 15, 20: 10, 30: 25, 45: 9, 53: 6, 56: 13, 56: 15, 56: 16, 56: 17, 56: 23, 57: 24, 58: 12, 58: 15, 58: 20, 59: 2, 60: 14, 60: 23, 61: 1, 61: 15, 65: 2, 67: 5, 67: 7, 70: 2, 70: 22, 71: 25, 78: 2, 82: 12, 84: 14, 93: 18, 94: 4, 100: 23, 109: 2, 109: 4, 113: 7</p> <p><b>saying</b> - 22: 8, 24: 8, 39: 8, 80: 5, 87: 10, 104: 18</p> <p><b>says</b> - 36: 19, 44: 21, 49: 5, 77: 25, 93: 16, 126: 4</p> <p><b>scared</b> - 13: 4, 117: 7</p> <p><b>scary</b> - 23: 11</p> <p><b>Scheck</b> - 18: 3</p> <p><b>scheduled</b> - 75: 22</p> <p><b>school</b> - 25: 19, 53: 13, 101: 1, 101: 5, 122: 23</p> <p><b>scientist</b> - 35: 17</p> <p><b>score</b> - 48: 11</p> <p><b>scores</b> - 106: 5</p> <p><b>scout</b> - 19: 25, 21: 4, 40: 5, 40: 11</p> |
|---|--|---|---|---|--|

screen - 71: 2  
 scrupulously - 22: 18  
 seal - 2: 17  
 sealed - 87: 14  
 search - 98: 23  
 season - 106: 6  
 seat - 15: 16, 27: 9, 27: 12, 30: 1, 30: 8, 30: 9  
   seat - 4: 21, 4: 22, 21: 10, 54: 9, 54: 14, 54: 19, 79: 17, 89: 2, 106: 25  
   seated - 4: 7, 40: 8, 81: 17, 89: 11, 108: 18  
 Sec - 120: 21  
 second - 38: 24, 45: 6, 87: 6, 103: 3  
 secretary - 68: 11, 86: 20  
 secretary-treasurer - 86: 20  
 section - 42: 21  
 see - 2: 22, 13: 24, 14: 2, 18: 7, 20: 4, 21: 24, 31: 8, 32: 8, 33: 5, 34: 21, 35: 20, 38: 11, 48: 24, 60: 19, 64: 18, 68: 12, 71: 6, 75: 24, 77: 25, 86: 10, 98: 2, 105: 7, 116: 15, 125: 19  
 seeking - 14: 17, 102: 3  
 seem - 113: 6  
 seemed - 13: 4, 66: 19  
 seems - 13: 8  
 seen - 49: 16, 63: 23, 71: 10  
 Seifan - 1: 14  
 selected - 5: 15, 69: 4  
 selecting - 4: 13, 64: 5  
 selection - 4: 10, 10: 1, 126: 2  
 selfish - 70: 3  
 sell - 71: 6  
 sells - 115: 24  
 sense - 67: 6, 78: 4  
 sensible - 30: 24  
 sentence - 14: 17, 102: 3, 102: 13  
 sentenced - 102: 16  
 separate - 63: 24  
 separating - 23: 8  
 sergeant - 113: 12  
 serious - 36: 11, 36: 22  
 seriously - 23: 22  
 serve - 48: 18, 55: 20, 126: 5  
 served - 17: 3, 23: 22, 55: 23, 88: 8, 98: 9, 98: 10, 98: 11  
 service - 14: 10, 23: 21, 26: 20, 65: 25, 67: 8, 88: 25  
 Service - 28: 25  
 services - 85: 15  
 set - 92: 25  
 settled - 97: 23, 97: 25  
 Seven - 5: 14, 6: 17, 9: 6, 30: 9, 42: 5, 42: 12  
 several - 68: 6, 75: 6, 77: 5, 85: 18  
 severe - 73: 23  
 shady - 45: 9  
 shall - 70: 2  
 Sharkey - 1: 17, 2: 12, 2: 15, 2: 20, 3: 21, 3: 24, 4: 14, 5: 2, 5: 5, 5: 10, 5: 12, 5: 16, 5: 19, 10: 2, 10: 5, 12: 18, 12: 22, 13: 11, 15: 8, 15: 22, 17: 14, 20: 18, 20: 20, 25: 5, 27: 7, 29: 25, 30: 8, 34: 18, 39: 19, 42: 4, 51: 25, 64: 4, 64: 7, 64: 11, 64: 13, 66: 22, 68: 22, 69: 1, 75: 7, 76: 8, 76: 13, 76: 21, 76: 25, 77: 5, 77: 9, 77: 13, 77: 19, 81: 5, 90: 25, 99: 8, 107: 10, 119: 13, 122: 7, 125: 25  
   she - 11: 24, 33: 1, 33: 8, 75: 3, 75: 4, 112: 1, 120: 14, 124: 15, 124: 18, 124: 20, 124: 21, 124: 24, 126: 4, 126: 5  
   she - 68: 11, 69: 24, 70: 2, 70: 5, 75: 5, 100: 17, 123: 23  
   she's - 33: 9, 92: 15, 113: 7, 115: 10  
   She's - 33: 10, 42: 10, 42: 11, 75: 16, 100: 14  
 sheet - 5: 20, 11: 3  
 sheriff's - 52: 17  
 shirt - 35: 7  
 shop - 122: 1

short - 83: 4  
 shortly - 64: 9  
 shot - 70: 13  
 should - 16: 18, 16: 25, 21: 2, 24: 1, 31: 13, 36: 8, 40: 7, 56: 23, 57: 17, 57: 18, 60: 21, 67: 2, 78: 2, 82: 13, 94: 4, 98: 19, 98: 20, 99: 6, 102: 11, 104: 12, 109: 5, 116: 21  
 shouldn't - 106: 6  
 showed - 22: 9  
 shown - 34: 4, 34: 8, 37: 4  
 shuffle - 3: 22, 4: 23  
 shuffled - 3: 23, 4: 5, 4: 8, 4: 10, 4: 12, 4: 21, 5: 7, 5: 18  
 shuffling - 4: 22, 5: 5  
 side - 45: 9, 62: 2, 62: 3, 62: 4, 102: 12  
 simple - 22: 4, 58: 24  
 simply - 39: 8  
 Simpson - 83: 15, 83: 16  
 since - 120: 12  
 sir - 10: 7, 10: 8, 12: 14, 12: 19, 17: 5, 18: 14, 19: 13, 19: 14, 21: 19, 25: 10, 27: 5, 28: 12, 28: 15, 29: 15, 31: 17, 44: 19, 51: 7, 51: 12, 59: 14, 61: 25, 62: 10, 82: 18, 85: 2, 86: 11, 122: 17  
 sister - 120: 13  
 sit - 13: 14, 43: 11, 67: 21, 67: 23, 107: 4, 107: 12, 117: 2  
 sit - 21: 19, 30: 13, 79: 23, 95: 19, 97: 9, 122: 13  
 situation - 54: 18, 65: 21, 125: 4  
 six - 5: 13, 5: 14, 6: 7, 6: 16, 30: 8, 40: 12  
 six - 46: 17, 69: 5  
 skipped - 99: 25  
 sleet - 29: 6  
 small - 122: 25  
 smaller - 96: 23  
 smile - 39: 12  
 smiling - 39: 10  
 Smithtown - 78: 11  
 snow - 29: 6  
 so - 4: 21, 5: 20, 5: 23, 6: 24, 13: 2, 15: 1, 17: 3, 23: 15, 32: 17, 36: 11, 39: 14, 42: 6, 45: 15, 52: 25, 58: 10, 62: 25, 63: 8, 64: 5, 66: 20, 73: 9, 92: 12, 93: 1, 102: 24, 106: 3, 110: 8, 117: 7, 117: 9, 117: 10, 121: 25, 123: 20  
   so - 3: 24, 5: 17, 18: 15, 23: 2, 29: 4, 30: 7, 30: 10, 36: 22, 37: 14, 41: 11, 41: 12, 55: 5, 64: 1, 72: 5, 93: 16, 110: 8, 116: 2  
 sober - 26: 17  
 sold - 71: 5, 71: 9, 117: 14  
 solely - 13: 5, 22: 14, 23: 16, 29: 17, 35: 11, 37: 4, 43: 15, 45: 11, 50: 12, 53: 1  
 some - 54: 23, 86: 22  
 some - 4: 19, 11: 21, 13: 6, 14: 13, 16: 12, 41: 17, 51: 14, 55: 4, 56: 23, 57: 25, 96: 24, 103: 8, 105: 5, 115: 21, 120: 17, 121: 4, 121: 13  
 somebody - 92: 25  
 somebody - 11: 5, 43: 12, 44: 21, 46: 14, 61: 6, 112: 7  
 somebody's - 36: 12  
 someone - 23: 21, 49: 4, 89: 8, 93: 25  
 Someone - 49: 3  
 something - 3: 3, 23: 25, 24: 16, 31: 1, 35: 21, 38: 2, 44: 21, 58: 19, 73: 11, 76: 5, 92: 15, 92: 25, 100: 14, 104: 12, 105: 7, 105: 9, 106: 1  
 Sometimes - 37: 22, 37: 23, 54: 10, 55: 16  
 sometimes - 94: 5, 94: 6  
 somewhat - 69: 24, 70: 2  
 somewhere - 105: 8  
 son - 31: 2, 33: 18, 58: 8, 70: 7, 123: 14  
 son-in-law - 123: 14  
 sorry - 3: 17, 27: 10, 50: 3, 52: 11, 62: 4, 84: 18, 84: 20, 114: 8, 117: 4, 117: 10, 118: 16  
 Sorry - 48: 21, 73: 7, 95: 14, 112: 2

Speak - 110: 15, 114: 6  
 speak - 19: 14, 62: 19, 66: 21  
 special - 53: 6, 53: 10  
 Special - 53: 9  
 specific - 27: 20  
 specifically - 11: 12, 66: 24, 76: 21  
 speedy - 77: 23  
 spent - 90: 2, 96: 11  
 spoke - 76: 17, 77: 5  
 spring - 14: 5  
 Square - 51: 10  
 staff - 41: 6, 62: 7  
 stage - 5: 11  
 Stage - 5: 12  
 stalwart - 13: 9  
 start - 107: 18  
 started - 39: 9, 99: 11, 123: 2  
 starting - 76: 4  
 state - 49: 10, 50: 9, 50: 19, 88: 11, 88: 12, 89: 9, 106: 16, 120: 8  
 State - 85: 20, 97: 18, 123: 22  
 statements - 61: 14  
 Staten - 101: 14  
 States - 1: 1, 1: 3, 1: 10, 1: 13, 28: 24  
 station - 60: 2  
 Station - 60: 3  
 stationed - 33: 10  
 statute - 77: 24  
 Stay - 5: 1  
 steady - 65: 19  
 steer - 27: 19  
 stenography - 1: 25  
 stepped - 30: 5, 45: 23  
 stick - 3: 22  
 still - 10: 15, 52: 19, 57: 12, 119: 22  
 Still - 94: 21  
 Stinks - 47: 7  
 stockbroker - 120: 15  
 stole - 69: 16  
 store - 115: 23, 115: 24, 115: 25, 116: 15  
 stories - 56: 20  
 Street - 1: 17, 101: 21  
 street - 43: 2, 43: 13, 68: 9, 78: 15, 122: 24  
 stress - 123: 12  
 strike - 13: 3, 87: 9  
 strong - 18: 15, 18: 18, 19: 17, 19: 25, 20: 3, 20: 22, 71: 12  
 strongly - 23: 14  
 struck - 40: 4, 40: 6  
 student - 104: 3  
 students - 53: 10  
 studying - 104: 10  
 stuff - 25: 25, 115: 24, 123: 21  
 submission - 2: 10  
 Submit - 2: 13  
 submitting - 2: 11  
 subpoena - 121: 21  
 subpoenaed - 76: 16, 77: 1, 77: 17, 77: 18  
 substance - 26: 15  
 subway - 54: 5  
 Subway - 42: 23, 54: 6  
 succeed - 19: 16  
 succeeds - 38: 3  
 successful - 38: 5, 38: 8  
 such - 14: 20, 14: 25, 15: 4, 16: 7, 16: 15, 23: 5, 34: 9, 36: 11, 37: 8, 37: 10, 70: 15, 73: 19, 73: 21, 81: 10, 102: 25, 117: 2, 117: 13  
 sue - 93: 10  
 sued - 123: 21, 123: 23  
 Suffolk - 123: 22  
 suggesting - 13: 10  
 suggestion - 28: 5  
 Suite - 1: 17  
 suits - 123: 21  
 summoned - 103: 7  
 sundry - 96: 13

|  |   |  |
|--|---|--|
| <p><b>supervision</b> - 76: 25<br/> <b>supervisor</b> - 60: 1, 60: 4, 65: 20, 66: 23<br/> <b>support</b> - 26: 4<br/> <b>suppose</b> - 5: 23<br/> <b>supposed</b> - 6: 8, 6: 10, 72: 8<br/> <b>sure</b> - 3: 11, 15: 1, 60: 4, 64: 8, 77: 1, 90: 18<br/> <b>Sure</b> - 18: 10, 71: 22, 71: 24, 90: 23, 109: 3, 113: 1<br/> <b>surrounded</b> - 66: 23<br/> <b>suspected</b> - 100: 14<br/> <b>sweater</b> - 21: 24, 28: 18<br/> <b>switching</b> - 107: 16<br/> <b>system</b> - 26: 4</p>  | <p>21: 14, 22: 4, 22: 9, 22: 10, 22: 11, 22: 17, 22: 20, 22: 25, 23: 1, 23: 2, 23: 4, 23: 6, 23: 10, 23: 14, 23: 24, 24: 2, 24: 3, 24: 10, 24: 15, 24: 21, 24: 23, 25: 21, 26: 1, 26: 11, 26: 22, 27: 21, 27: 25, 28: 4, 29: 7, 29: 13, 31: 7, 31: 11, 31: 15, 33: 11, 34: 1, 34: 3, 34: 4, 34: 6, 34: 7, 34: 24, 35: 13, 35: 21, 35: 24, 36: 2, 36: 6, 36: 11, 36: 12, 36: 13, 36: 20, 36: 25, 37: 3, 37: 5, 37: 12, 38: 16, 38: 23, 39: 6, 39: 7, 39: 13, 39: 16, 39: 20, 39: 21, 40: 2, 40: 4, 40: 6, 41: 3, 43: 5, 43: 8, 43: 16, 43: 17, 43: 19, 43: 25, 44: 11, 44: 14, 44: 16, 45: 3, 45: 5, 46: 9, 47: 3, 47: 9, 48: 2, 48: 4, 48: 11, 49: 13, 50: 16, 52: 15, 52: 18, 52: 24, 53: 16, 54: 20, 55: 5, 55: 10, 55: 21, 56: 16, 56: 21, 57: 13, 58: 1, 58: 9, 58: 15, 58: 17, 58: 24, 60: 3, 60: 14, 63: 6, 64: 17, 65: 2, 65: 3, 65: 8, 66: 3, 67: 11, 69: 16, 71: 12, 71: 15, 71: 21, 72: 6, 72: 7, 72: 8, 72: 20, 73: 9, 73: 13, 75: 11, 76: 6, 76: 23, 76: 24, 77: 3, 77: 11, 77: 16, 79: 7, 79: 9, 80: 6, 80: 13, 80: 14, 80: 16, 80: 18, 80: 23, 81: 13, 82: 3, 82: 15, 84: 3, 84: 15, 85: 19, 86: 2, 86: 5, 86: 7, 86: 22, 86: 24, 88: 2, 89: 9, 90: 1, 90: 19, 92: 1, 92: 13, 92: 15, 93: 3, 93: 20, 93: 24, 94: 6, 94: 19, 94: 24, 95: 2, 95: 12, 96: 13, 96: 15, 96: 18, 96: 24, 97: 20, 97: 24, 99: 21, 100: 20, 102: 3, 102: 5, 102: 9, 102: 12, 102: 13, 102: 14, 103: 12, 105: 8, 105: 14, 105: 15, 105: 16, 105: 18, 105: 20, 106: 2, 106: 9, 108: 7, 108: 8, 108: 12, 110: 1, 111: 13, 111: 19, 111: 21, 111: 22, 112: 2, 113: 10, 113: 15, 114: 9, 117: 2, 117: 7, 118: 11, 118: 12, 118: 19, 119: 4, 119: 15, 121: 5, 121: 18, 122: 3, 123: 9, 123: 16, 123: 21, 124: 16, 124: 25, 125: 4, 125: 5, 125: 10, 126: 1<br/> <b>That's</b> - 10: 5, 10: 15, 10: 21, 11: 9, 12: 4, 14: 21, 16: 16, 16: 20, 16: 21, 16: 22, 18: 5, 18: 14, 19: 10, 20: 8, 23: 12, 35: 7, 35: 22, 36: 25, 37: 13, 38: 10, 42: 24, 44: 1, 48: 10, 50: 21, 51: 21, 51: 23, 54: 18, 60: 5, 62: 16, 64: 2, 66: 5, 70: 20, 78: 3, 82: 13, 86: 11, 98: 24, 105: 5, 107: 11, 112: 3, 118: 12, 124: 18, 125: 23<br/> <b>that's</b> - 4: 10, 4: 22, 12: 6, 19: 18, 24: 16, 30: 24, 35: 23, 36: 21, 55: 17, 60: 18, 61: 16, 62: 4, 63: 13, 66: 2, 67: 9, 67: 24, 73: 17, 77: 23, 77: 24, 78: 3, 98: 17, 124: 15<br/> <b>The</b> - 1: 9, 2: 2, 2: 6, 2: 7, 2: 13, 2: 16, 3: 2, 3: 5, 3: 18, 3: 23, 4: 1, 4: 2, 4: 3, 4: 4, 4: 6, 4: 9, 4: 12, 4: 15, 4: 16, 4: 20, 4: 24, 4: 25, 5: 4, 5: 9, 5: 11, 5: 14, 5: 17, 5: 23, 5: 25, 6: 10, 6: 14, 7: 1, 8: 8, 9: 24, 10: 4, 10: 7, 10: 8, 10: 9, 10: 10, 10: 12, 10: 14, 10: 15, 10: 17, 10: 18, 10: 21, 10: 22, 10: 23, 10: 24, 11: 1, 11: 9, 11: 11, 11: 14, 11: 18, 12: 1, 12: 2, 12: 6, 12: 8, 12: 9, 12: 14, 12: 15, 12: 19, 12: 21, 12: 25, 13: 8, 13: 12, 13: 13, 13: 14, 13: 15, 13: 16, 13: 21, 13: 22, 13: 24, 13: 25, 14: 2, 14: 4, 14: 5, 14: 7, 14: 8, 14: 9, 14: 10, 14: 12, 14: 13, 14: 15, 14: 16, 14: 21, 14: 22, 14: 23, 14: 24, 15: 1, 15: 3, 15: 6, 15: 7, 15: 11, 15: 13, 15: 15, 15: 16, 15: 18, 15: 19, 15: 21, 15: 24, 16: 1, 16: 2, 16: 3, 16: 4, 16: 5, 16: 6, 16: 7, 16: 8, 16: 9, 16: 10, 16: 11, 16: 16, 16: 17, 16: 20, 16: 21, 16: 22, 16: 23, 17: 5, 17: 6, 17: 7, 17: 9, 17: 10, 17: 12, 17: 16, 17: 18, 17: 20, 17: 22, 17: 23, 18: 7, 18: 10, 18: 11, 18: 14, 18: 15, 18: 17, 18: 22, 18: 25, 19: 2, 19: 6, 19: 8, 19: 10, 19: 11, 19: 13, 19: 15, 19: 17, 19: 21, 19: 22, 20: 3, 20: 5, 20: 7, 20: 9, 20: 11, 20: 12, 20: 14, 20: 15, 20: 17, 20: 19, 21: 4, 21: 6, 21: 12, 21: 17, 21: 19, 21: 20, 21: 21, 21: 23, 21: 24, 21: 25, 22: 1, 22: 2, 22: 3, 22: 16, 22: 17, 22: 19, 22: 20,</p> | <p>22: 22, 22: 23, 23: 1, 23: 2, 23: 4, 23: 14, 23: 18, 24: 6, 24: 7, 24: 9, 24: 11, 24: 13, 24: 17, 24: 18, 24: 25, 25: 1, 25: 3, 25: 6, 25: 8, 25: 10, 25: 11, 25: 13, 25: 14, 25: 20, 25: 21, 25: 22, 25: 24, 26: 1, 26: 3, 26: 4, 26: 6, 26: 7, 26: 8, 26: 9, 26: 10, 26: 11, 26: 13, 26: 16, 26: 18, 26: 19, 26: 22, 26: 24, 26: 25, 27: 2, 27: 3, 27: 5, 27: 6, 27: 9, 27: 12, 27: 17, 27: 22, 28: 4, 28: 7, 28: 9, 28: 10, 28: 11, 28: 12, 28: 13, 28: 15, 28: 16, 28: 17, 28: 18, 28: 22, 28: 23, 28: 24, 29: 1, 29: 3, 29: 4, 29: 5, 29: 6, 29: 8, 29: 9, 29: 10, 29: 11, 29: 12, 29: 13, 29: 15, 29: 16, 29: 19, 29: 20, 29: 22, 29: 23, 30: 1, 30: 3, 30: 5, 30: 11, 30: 13, 30: 14, 30: 15, 30: 16, 30: 17, 30: 18, 30: 19, 30: 20, 30: 22, 30: 23, 30: 24, 30: 25, 31: 4, 31: 5, 31: 8, 31: 10, 31: 11, 31: 12, 31: 14, 31: 16, 31: 17, 31: 18, 31: 19, 31: 20, 31: 21, 31: 22, 31: 23, 32: 2, 32: 3, 32: 5, 32: 6, 32: 8, 32: 9, 32: 10, 32: 11, 32: 12, 32: 13, 32: 14, 32: 16, 32: 18, 32: 21, 32: 23, 32: 25, 33: 1, 33: 3, 33: 5, 33: 8, 33: 11, 33: 12, 33: 13, 33: 15, 33: 17, 33: 18, 33: 20, 33: 22, 33: 24, 34: 3, 34: 6, 34: 7, 34: 10, 34: 11, 34: 13, 34: 14, 34: 15, 34: 17, 34: 20, 34: 21, 34: 22, 34: 23, 35: 1, 35: 3, 35: 4, 35: 5, 35: 6, 35: 7, 35: 8, 35: 10, 35: 12, 35: 13, 35: 18, 35: 19, 35: 20, 35: 23, 35: 25, 36: 2, 36: 4, 36: 6, 36: 9, 36: 10, 36: 14, 36: 15, 36: 16, 36: 17, 36: 18, 36: 21, 36: 22, 37: 1, 37: 2, 37: 6, 37: 8, 37: 9, 37: 10, 37: 11, 37: 12, 37: 14, 37: 16, 37: 17, 37: 18, 37: 19, 37: 20, 37: 22, 37: 24, 38: 1, 38: 2, 38: 4, 38: 5, 38: 7, 38: 9, 38: 11, 38: 12, 38: 13, 38: 14, 38: 16, 38: 18, 38: 19, 38: 23, 38: 25, 39: 2, 39: 16, 39: 23, 40: 9, 40: 14, 40: 16, 40: 17, 40: 18, 40: 19, 40: 20, 40: 22, 40: 23, 40: 24, 40: 25, 41: 1, 41: 3, 41: 5, 41: 6, 41: 8, 41: 9, 41: 10, 41: 13, 41: 15, 41: 16, 41: 20, 41: 21, 41: 22, 41: 23, 41: 24, 41: 25, 42: 1, 42: 2, 42: 5, 42: 6, 42: 8, 42: 10, 42: 11, 42: 14, 42: 15, 42: 17, 42: 18, 42: 19, 42: 21, 42: 22, 42: 23, 42: 24, 43: 1, 43: 2, 43: 4, 43: 5, 43: 6, 43: 8, 43: 10, 43: 14, 43: 16, 43: 19, 43: 20, 43: 22, 43: 23, 43: 25, 44: 3, 44: 5, 44: 6, 44: 8, 44: 9, 44: 10, 44: 12, 44: 13, 44: 15, 44: 16, 44: 17, 44: 18, 44: 19, 44: 20, 44: 22, 44: 23, 44: 25, 45: 2, 45: 4, 45: 6, 45: 10, 45: 12, 45: 14, 45: 15, 45: 16, 45: 18, 45: 21, 45: 23, 45: 24, 45: 25, 46: 2, 46: 3, 46: 4, 46: 5, 46: 6, 46: 7, 46: 9, 46: 11, 46: 12, 46: 16, 46: 18, 46: 20, 46: 22, 46: 23, 46: 25, 47: 1, 47: 3, 47: 4, 47: 6, 47: 7, 47: 8, 47: 10, 47: 11, 47: 13, 47: 14, 47: 15, 48: 2, 48: 3, 48: 4, 48: 5, 48: 6, 48: 7, 48: 8, 48: 9, 48: 10, 48: 12, 48: 13, 48: 14, 48: 15, 48: 16, 48: 18, 48: 20, 48: 21, 48: 22, 48: 24, 49: 1, 49: 2, 49: 3, 49: 5, 49: 7, 49: 8, 49: 9, 49: 13, 49: 15, 49: 16, 49: 20, 49: 21, 49: 22, 49: 23, 49: 24, 50: 1, 50: 2, 50: 4, 50: 5, 50: 6, 50: 7, 50: 11, 50: 13, 50: 14, 50: 17, 50: 18, 50: 20, 50: 23, 51: 1, 51: 3, 51: 4, 51: 5, 51: 7, 51: 8, 51: 9, 51: 11, 51: 12, 51: 13, 51: 16, 51: 17, 51: 19, 51: 20, 51: 21, 51: 23, 52: 1, 52: 3, 52: 5, 52: 7, 52: 8, 52: 9, 52: 10, 52: 12, 52: 13, 52: 14, 52: 16, 52: 17, 52: 19, 52: 21, 52: 22, 52: 24, 52: 25, 53: 1, 53: 3, 53: 4, 53: 6, 53: 8, 53: 9, 53: 11, 53: 12, 53: 14, 53: 15, 53: 17, 53: 18, 53: 20, 53: 22, 53: 23, 53: 24, 54: 1, 54: 2, 54: 3, 54: 4, 54: 6, 54: 7, 54: 8, 54: 9, 54: 10, 54: 11, 54: 12, 54: 13, 54: 15, 54: 16, 54: 18, 54: 19, 54: 21, 54: 22, 54: 23, 54: 24, 55: 1, 55: 3, 55: 8, 55: 10, 55: 11, 55: 13, 55: 14, 55: 15, 55: 16, 55: 17, 55: 18, 55: 19, 55: 20,</p> |
| <b>T</b>   |   |  |
| <p><b>T</b> - 75: 1<br/> <b>take</b> - 2: 9, 3: 12, 4: 22, 4: 23, 25: 14, 27: 13, 54: 7, 60: 1, 60: 3, 67: 22, 74: 2, 75: 5, 82: 1, 82: 4, 82: 5, 87: 6, 87: 23, 93: 15, 93: 17<br/> <b>Take</b> - 30: 1, 79: 17<br/> <b>taken</b> - 4: 11, 69: 25<br/> <b>takes</b> - 23: 21, 68: 6<br/> <b>taking</b> - 6: 23<br/> <b>talk</b> - 52: 14, 93: 18, 122: 1<br/> <b>talked</b> - 77: 8<br/> <b>talking</b> - 65: 15, 125: 13<br/> <b>Talking</b> - 11: 22<br/> <b>target</b> - 100: 11<br/> <b>taxicab</b> - 30: 23<br/> <b>teacher</b> - 50: 7, 50: 9, 53: 7, 53: 9<br/> <b>teaching</b> - 50: 21, 50: 22, 101: 4<br/> <b>team</b> - 94: 24<br/> <b>tell</b> - 2: 5, 24: 2, 24: 4, 32: 17, 45: 3, 50: 15, 63: 6, 63: 9, 63: 11, 63: 13, 94: 8, 94: 10, 105: 24, 106: 7, 109: 6, 115: 21<br/> <b>Tell</b> - 74: 8, 117: 10<br/> <b>telling</b> - 3: 6, 72: 3, 72: 6, 87: 12<br/> <b>ten</b> - 4: 25, 26: 17, 52: 2, 97: 4, 97: 6, 100: 17, 121: 4<br/> <b>Ten</b> - 6: 20, 7: 21, 119: 22<br/> <b>tend</b> - 55: 14<br/> <b>tenth</b> - 3: 14<br/> <b>terminal</b> - 90: 1<br/> <b>terrible</b> - 11: 9<br/> <b>testifies</b> - 72: 1<br/> <b>testify</b> - 118: 11, 118: 13, 118: 20, 118: 22, 119: 5, 119: 6, 121: 21<br/> <b>testifying</b> - 118: 15, 118: 18<br/> <b>testimony</b> - 14: 19, 15: 4, 16: 15, 17: 24, 21: 2, 102: 5, 102: 6, 102: 25, 116: 21<br/> <b>tests</b> - 49: 11<br/> <b>Texas</b> - 29: 11<br/> <b>than</b> - 67: 2, 71: 16, 72: 24, 73: 23, 120: 5<br/> <b>Thank</b> - 12: 18, 15: 19, 19: 6, 20: 14, 20: 15, 21: 20, 24: 25, 25: 1, 28: 17, 30: 1, 30: 3, 30: 14, 34: 11, 34: 14, 34: 15, 35: 9, 38: 25, 40: 19, 42: 6, 42: 8, 42: 15, 47: 12, 47: 13, 47: 15, 50: 23, 52: 2, 52: 3, 53: 18, 59: 4, 59: 7, 63: 21, 66: 16, 68: 19, 73: 24, 75: 19, 81: 16, 91: 3, 97: 1, 97: 2, 100: 3, 103: 14, 103: 16, 107: 11, 109: 8, 109: 9, 110: 24, 111: 5, 112: 16, 112: 18, 113: 20, 117: 4, 117: 6, 117: 9, 119: 18, 119: 19, 122: 8, 125: 19, 125: 21<br/> <b>thank</b> - 21: 23, 85: 4, 107: 6, 107: 22, 114: 1, 117: 24<br/> <b>Thanks</b> - 73: 25, 89: 4<br/> <b>thanks</b> - 69: 14, 87: 18<br/> <b>That</b> - 21: 1, 30: 8, 32: 9, 32: 10, 32: 23, 44: 23, 78: 2, 84: 1, 95: 16, 108: 9<br/> <b>that</b> - 2: 4, 2: 5, 2: 9, 2: 24, 3: 13, 4: 17, 4: 18, 4: 21, 6: 10, 6: 25, 7: 2, 10: 16, 10: 18, 11: 6, 11: 14, 11: 23, 11: 24, 12: 3, 13: 5, 14: 10, 14: 17, 14: 18, 14: 24, 17: 4, 17: 22, 18: 6, 19: 13, 19: 14, 19: 19, 19: 22, 19: 23, 20: 2, 20: 5, 20: 10, 20: 13, 21: 10,</p> |   |  |

55: 22, 55: 25, 56: 1, 56: 3, 56: 5, 56: 7,  
56: 8, 56: 9, 56: 10, 56: 11, 56: 12, 56: 17,  
56: 18, 56: 24, 56: 25, 57: 1, 57: 2, 57: 3,  
57: 5, 57: 7, 57: 8, 57: 9, 57: 10, 57: 13,  
57: 16, 57: 19, 57: 21, 57: 22, 57: 24, 58: 3,  
58: 4, 58: 5, 58: 6, 58: 12, 58: 14, 58: 15,  
58: 16, 58: 20, 58: 22, 58: 24, 59: 3, 59: 4,  
59: 5, 59: 6, 59: 7, 59: 9, 59: 11, 59: 12,  
59: 13, 59: 14, 59: 15, 59: 16, 59: 17,  
59: 18, 59: 19, 59: 20, 59: 21, 59: 22,  
59: 25, 60: 1, 60: 5, 60: 7, 60: 8, 60: 10,  
60: 11, 60: 15, 60: 19, 60: 20, 60: 23,  
60: 24, 61: 1, 61: 2, 61: 3, 61: 5, 61: 7,  
61: 8, 61: 9, 61: 10, 61: 12, 61: 13, 61: 15,  
61: 16, 61: 17, 61: 18, 61: 20, 61: 21,  
61: 22, 61: 24, 62: 1, 62: 2, 62: 3, 62: 4,  
62: 6, 62: 10, 62: 11, 62: 13, 62: 14, 62: 16,  
62: 17, 62: 18, 62: 19, 62: 20, 62: 21,  
62: 22, 62: 23, 62: 25, 63: 1, 63: 3, 63: 5,  
63: 7, 63: 9, 63: 11, 63: 13, 63: 16, 63: 17,  
63: 19, 63: 20, 63: 21, 63: 23, 63: 25, 64: 2,  
64: 5, 64: 8, 64: 12, 64: 20, 64: 22, 64: 24,  
65: 1, 65: 2, 65: 6, 65: 7, 65: 8, 65: 10,  
65: 11, 65: 14, 65: 16, 65: 17, 65: 19,  
65: 22, 65: 24, 66: 2, 66: 3, 66: 4, 66: 6,  
66: 7, 66: 9, 66: 10, 66: 12, 66: 14, 66: 15,  
66: 16, 66: 18, 66: 23, 67: 1, 67: 12, 67: 14,  
67: 15, 67: 17, 67: 20, 67: 21, 67: 24,  
67: 25, 68: 2, 68: 4, 68: 5, 68: 7, 68: 9,  
68: 10, 68: 14, 68: 15, 68: 16, 68: 17,  
68: 19, 68: 24, 69: 2, 69: 9, 69: 11, 69: 12,  
69: 13, 69: 14, 69: 15, 69: 16, 69: 18,  
69: 19, 69: 20, 69: 21, 69: 22, 69: 23,  
69: 24, 69: 25, 70: 2, 70: 4, 70: 5, 70: 7,  
70: 8, 70: 10, 70: 12, 70: 14, 70: 15, 70: 17,  
70: 19, 70: 23, 70: 24, 70: 25, 71: 1, 71: 2,  
71: 3, 71: 4, 71: 6, 71: 8, 71: 10, 71: 11,  
71: 12, 71: 14, 71: 17, 71: 22, 71: 23,  
71: 24, 71: 25, 72: 2, 72: 7, 72: 11, 72: 12,  
72: 14, 72: 15, 72: 16, 72: 17, 72: 18,  
72: 19, 72: 21, 73: 1, 73: 3, 73: 4, 73: 6,  
73: 7, 73: 8, 73: 11, 73: 14, 73: 16, 73: 19,  
73: 20, 73: 21, 73: 22, 73: 24, 73: 25, 74: 2,  
74: 5, 74: 9, 75: 2, 75: 8, 75: 10, 75: 12,  
75: 14, 75: 16, 75: 18, 75: 21, 76: 2, 76: 5,  
76: 16, 76: 20, 76: 23, 77: 15, 77: 17,  
77: 23, 77: 24, 78: 5, 78: 8, 78: 9, 78: 10,  
78: 11, 78: 12, 78: 13, 78: 14, 78: 15,  
78: 16, 78: 18, 78: 19, 78: 20, 78: 21,  
78: 24, 79: 1, 79: 6, 79: 8, 79: 9, 79: 11,  
79: 13, 79: 14, 79: 17, 79: 19, 79: 21,  
79: 22, 79: 23, 79: 25, 80: 1, 80: 2, 80: 3,  
80: 5, 80: 7, 80: 9, 80: 10, 80: 12, 80: 13,  
80: 17, 80: 18, 80: 20, 80: 21, 80: 24,  
80: 25, 81: 3, 81: 4, 81: 7, 81: 10, 81: 12,  
81: 13, 81: 15, 81: 16, 81: 18, 81: 20,  
81: 21, 81: 22, 81: 23, 81: 24, 81: 25, 82: 1,  
82: 2, 82: 3, 82: 4, 82: 6, 82: 7, 82: 8,  
82: 11, 82: 12, 82: 15, 82: 16, 82: 18,  
82: 19, 82: 21, 82: 23, 82: 25, 83: 1, 83: 2,  
83: 5, 83: 6, 83: 8, 83: 9, 83: 10, 83: 11,  
83: 12, 83: 13, 83: 14, 83: 15, 83: 17,  
83: 19, 83: 20, 83: 22, 83: 23, 83: 24, 84: 1,  
84: 3, 84: 5, 84: 6, 84: 7, 84: 8, 84: 10,  
84: 12, 84: 13, 84: 14, 84: 19, 84: 23,  
84: 24, 85: 1, 85: 2, 85: 3, 85: 4, 85: 5,  
85: 6, 85: 7, 85: 8, 85: 9, 85: 10, 85: 11,  
85: 14, 85: 17, 85: 18, 85: 22, 86: 2, 86: 3,  
86: 4, 86: 5, 86: 8, 86: 9, 86: 13, 86: 16,  
86: 17, 86: 19, 86: 22, 86: 25, 87: 1, 87: 3,  
87: 8, 87: 13, 87: 15, 87: 17, 87: 18, 87: 19,  
87: 20, 87: 21, 87: 22, 87: 23, 87: 24,  
87: 25, 88: 1, 88: 2, 88: 4, 88: 5, 88: 7,  
88: 8, 88: 9, 88: 11, 88: 12, 88: 14, 88: 15,  
88: 16, 88: 17, 88: 18, 88: 20, 88: 21,  
88: 22, 88: 23, 88: 25, 89: 1, 89: 2, 89: 4,  
89: 6, 89: 10, 89: 14, 89: 15, 89: 16, 89: 17,  
89: 18, 89: 20, 89: 22, 89: 23, 89: 24,  
89: 25, 90: 1, 90: 3, 90: 4, 90: 6, 90: 8,  
90: 9, 90: 10, 90: 12, 90: 13, 90: 14, 90: 15,

90: 16, 90: 17, 90: 18, 90: 21, 90: 23,  
90: 24, 91: 1, 91: 3, 91: 5, 91: 7, 91: 8,  
91: 9, 91: 10, 91: 11, 91: 13, 91: 14, 91: 15,  
91: 16, 91: 18, 91: 19, 91: 21, 91: 22,  
91: 23, 91: 24, 91: 25, 92: 1, 92: 2, 92: 3,  
92: 4, 92: 5, 92: 7, 92: 8, 92: 9, 92: 11,  
92: 12, 92: 13, 92: 14, 92: 16, 92: 17,  
92: 19, 92: 20, 92: 21, 92: 22, 92: 23,  
92: 24, 93: 3, 93: 4, 93: 5, 93: 6, 93: 7,  
93: 8, 93: 9, 93: 10, 93: 12, 93: 14, 93: 20,  
93: 23, 93: 24, 94: 2, 94: 3, 94: 4, 94: 8,  
94: 11, 94: 12, 94: 13, 94: 14, 94: 15,  
94: 16, 94: 21, 94: 22, 94: 23, 94: 25, 95: 1,  
95: 3, 95: 5, 95: 6, 95: 7, 95: 9, 95: 10,  
95: 13, 95: 14, 95: 16, 95: 17, 95: 19,  
95: 21, 95: 23, 95: 24, 96: 1, 96: 4, 96: 6,  
96: 8, 96: 10, 96: 11, 96: 15, 96: 17, 96: 20,  
96: 22, 97: 1, 97: 2, 97: 4, 97: 6, 97: 9,  
97: 10, 97: 11, 97: 12, 97: 13, 97: 16,  
97: 17, 97: 19, 97: 20, 97: 22, 97: 24,  
97: 25, 98: 2, 98: 4, 98: 5, 98: 6, 98: 7,  
98: 8, 98: 9, 98: 10, 98: 12, 98: 13, 98: 14,  
98: 15, 98: 16, 98: 17, 98: 19, 98: 20,  
98: 21, 98: 22, 99: 1, 99: 2, 99: 3, 99: 4,  
99: 6, 99: 7, 99: 9, 99: 10, 99: 12, 99: 13,  
99: 16, 99: 17, 99: 18, 99: 19, 99: 20,  
99: 21, 99: 23, 99: 25, 100: 2, 100: 3,  
100: 5, 100: 7, 100: 8, 100: 9, 100: 11,  
100: 13, 100: 14, 100: 16, 100: 17,  
100: 19, 100: 20, 100: 22, 100: 24,  
100: 25, 101: 2, 101: 3, 101: 4, 101: 5,  
101: 6, 101: 7, 101: 9, 101: 11, 101: 12,  
101: 13, 101: 14, 101: 16, 101: 17,  
101: 19, 101: 21, 101: 22, 101: 24, 102: 1,  
102: 2, 102: 8, 102: 9, 102: 10, 102: 15,  
102: 17, 102: 18, 102: 19, 102: 20,  
102: 23, 102: 24, 103: 1, 103: 2, 103: 4,  
103: 6, 103: 8, 103: 10, 103: 11, 103: 13,  
103: 14, 103: 16, 103: 19, 103: 21,  
103: 24, 103: 25, 104: 1, 104: 2, 104: 3,  
104: 4, 104: 5, 104: 6, 104: 7, 104: 8,  
104: 10, 104: 11, 104: 14, 104: 15,  
104: 16, 104: 17, 104: 21, 104: 22,  
104: 24, 105: 4, 105: 11, 105: 12, 105: 15,  
105: 16, 105: 17, 105: 20, 105: 23,  
105: 24, 106: 1, 106: 4, 106: 9, 106: 10,  
106: 12, 106: 14, 106: 16, 106: 18,  
106: 19, 106: 21, 106: 22, 106: 24, 107: 2,  
107: 4, 107: 6, 107: 7, 107: 8, 107: 9,  
107: 11, 107: 14, 107: 16, 107: 18,  
107: 20, 107: 21, 107: 22, 107: 24, 108: 1,  
108: 2, 108: 3, 108: 4, 108: 5, 108: 7,  
108: 8, 108: 9, 108: 12, 108: 14, 108: 15,  
108: 16, 108: 17, 108: 19, 108: 20,  
108: 23, 108: 25, 109: 1, 109: 3, 109: 4,  
109: 7, 109: 9, 109: 11, 109: 13, 109: 14,  
109: 15, 109: 17, 109: 18, 109: 19,  
109: 20, 109: 21, 109: 22, 109: 23,  
109: 24, 109: 25, 110: 1, 110: 2, 110: 3,  
110: 4, 110: 5, 110: 6, 110: 7, 110: 8,  
110: 9, 110: 12, 110: 13, 110: 14, 110: 15,  
110: 16, 110: 17, 110: 19, 110: 20,  
110: 21, 110: 22, 110: 23, 110: 24, 111: 1,  
111: 4, 111: 5, 111: 7, 111: 9, 111: 10,  
111: 11, 111: 12, 111: 13, 111: 15,  
111: 17, 111: 18, 111: 19, 111: 20,  
111: 21, 111: 22, 111: 24, 112: 1, 112: 2,  
112: 3, 112: 4, 112: 6, 112: 7, 112: 9,  
112: 11, 112: 12, 112: 13, 112: 15,  
112: 16, 112: 18, 112: 20, 112: 21,  
112: 23, 112: 24, 112: 25, 113: 1, 113: 2,  
113: 4, 113: 5, 113: 6, 113: 8, 113: 11,  
113: 12, 113: 14, 113: 15, 113: 16,  
113: 17, 113: 18, 113: 19, 113: 20,  
113: 22, 113: 23, 113: 25, 114: 1, 114: 2,  
114: 4, 114: 5, 114: 7, 114: 9, 114: 12,  
114: 13, 114: 15, 114: 16, 114: 18,  
114: 19, 114: 21, 114: 22, 114: 25, 115: 1,  
115: 4, 115: 5, 115: 6, 115: 7, 115: 8,  
115: 10, 115: 12, 115: 13, 115: 14,

115: 16, 115: 17, 115: 18, 115: 20,  
115: 21, 115: 23, 115: 24, 116: 3, 116: 4,  
116: 6, 116: 7, 116: 8, 116: 9, 116: 10,  
116: 12, 116: 13, 116: 14, 116: 17,  
116: 19, 116: 20, 116: 22, 116: 23,  
116: 25, 117: 3, 117: 4, 117: 6, 117: 10,  
117: 11, 117: 13, 117: 15, 117: 16,  
117: 18, 117: 20, 117: 21, 117: 22,  
117: 23, 117: 24, 118: 2, 118: 3, 118: 5,  
118: 6, 118: 9, 118: 10, 118: 14, 118: 16,  
118: 17, 118: 19, 118: 21, 118: 22,  
118: 23, 118: 24, 119: 2, 119: 7, 119: 8,  
119: 9, 119: 10, 119: 11, 119: 12, 119: 14,  
119: 16, 119: 17, 119: 19, 119: 21,  
119: 23, 119: 25, 120: 1, 120: 2, 120: 4,  
120: 5, 120: 7, 120: 8, 120: 10, 120: 11,  
120: 12, 120: 13, 120: 14, 120: 15,  
120: 16, 120: 17, 120: 20, 120: 21,  
120: 23, 120: 25, 121: 1, 121: 2, 121: 3,  
121: 5, 121: 6, 121: 7, 121: 9, 121: 10,  
121: 11, 121: 13, 121: 15, 121: 16,  
121: 17, 121: 18, 121: 19, 121: 20,  
121: 22, 121: 23, 121: 25, 122: 3, 122: 4,  
122: 5, 122: 8, 122: 11, 122: 13, 122: 15,  
122: 16, 122: 17, 122: 18, 122: 21, 123: 1,  
123: 2, 123: 3, 123: 4, 123: 14, 123: 15,  
123: 16, 123: 18, 123: 19, 123: 20,  
123: 24, 124: 1, 124: 3, 124: 5, 124: 9,  
124: 12, 124: 21, 124: 23, 124: 25, 125: 3,  
125: 6, 125: 8, 125: 9, 125: 12, 125: 14,  
125: 15, 125: 19, 125: 21, 125: 23, 126: 3,  
**the** - 1: 12, 1: 17, 2: 1, 2: 4, 2: 8, 2: 9,  
2: 11, 2: 14, 2: 17, 2: 21, 2: 22, 2: 25, 3: 4,  
3: 7, 3: 9, 3: 12, 3: 13, 3: 14, 3: 15, 3: 16,  
3: 20, 3: 22, 3: 23, 3: 24, 4: 4, 4: 6, 4: 7,  
4: 10, 4: 21, 4: 22, 5: 6, 5: 7, 5: 8, 5: 15,  
5: 17, 5: 21, 5: 22, 6: 1, 6: 24, 7: 2, 9: 24,  
9: 25, 10: 14, 10: 16, 10: 18, 10: 20, 11: 2,  
11: 4, 11: 7, 11: 11, 11: 22, 11: 23, 11: 24,  
11: 25, 12: 10, 13: 1, 13: 3, 13: 5, 13: 6,  
13: 7, 13: 11, 13: 17, 14: 19, 15: 3, 15: 10,  
15: 11, 16: 11, 16: 14, 16: 24, 16: 25,  
17: 23, 17: 24, 17: 25, 18: 2, 18: 4, 18: 5,  
18: 6, 18: 11, 18: 18, 18: 22, 18: 24, 20: 8,  
20: 21, 20: 23, 21: 3, 21: 5, 21: 6, 21: 10,  
22: 3, 22: 6, 22: 8, 22: 9, 22: 10, 22: 12,  
22: 14, 22: 15, 22: 20, 22: 23, 23: 2, 23: 6,  
23: 8, 23: 10, 23: 15, 23: 25, 24: 2, 24: 3,  
24: 10, 24: 19, 24: 22, 25: 11, 25: 15,  
25: 16, 25: 25, 26: 2, 26: 15, 27: 9, 27: 12,  
27: 13, 27: 16, 27: 18, 27: 19, 27: 20,  
27: 24, 27: 25, 28: 1, 28: 2, 28: 6, 28: 13,  
29: 7, 29: 16, 29: 17, 29: 18, 29: 20, 30: 10,  
31: 1, 31: 2, 31: 21, 31: 22, 32: 1, 32: 2,  
32: 15, 32: 17, 32: 19, 32: 22, 33: 21, 34: 3,  
34: 7, 35: 10, 35: 11, 36: 10, 36: 22, 36: 23,  
36: 24, 37: 4, 37: 5, 37: 6, 37: 13, 37: 15,  
37: 16, 38: 3, 38: 16, 38: 21, 39: 8, 39: 13,  
39: 17, 39: 25, 40: 2, 40: 4, 40: 5, 40: 6,  
40: 10, 41: 4, 41: 6, 41: 12, 41: 16, 43: 2,  
43: 13, 43: 15, 43: 17, 43: 20, 43: 21,  
43: 24, 44: 2, 44: 3, 44: 7, 44: 13, 44: 21,  
45: 5, 45: 8, 45: 11, 45: 24, 46: 7, 46: 18,  
47: 9, 48: 10, 48: 11, 48: 25, 49: 2, 49: 6,  
49: 8, 49: 10, 49: 24, 50: 3, 50: 8, 50: 12,  
50: 14, 50: 15, 50: 18, 51: 17, 52: 17,  
52: 23, 54: 24, 55: 2, 55: 4, 55: 11, 55: 16,  
56: 4, 56: 5, 56: 7, 56: 11, 56: 19, 57: 16,  
57: 25, 58: 1, 58: 6, 58: 8, 58: 9, 58: 10,  
58: 18, 58: 22, 59: 1, 59: 24, 60: 4, 60: 6,  
60: 9, 60: 12, 60: 21, 60: 24, 61: 4, 61: 5,  
61: 14, 61: 25, 62: 1, 62: 2, 62: 3, 62: 4,  
62: 6, 62: 9, 62: 11, 63: 5, 63: 9, 63: 10,  
63: 15, 63: 20, 64: 10, 64: 18, 64: 25, 65: 3,  
65: 4, 65: 5, 65: 6, 65: 22, 66: 22, 67: 4,  
67: 5, 67: 7, 67: 8, 67: 9, 68: 2, 68: 12,  
68: 22, 69: 3, 69: 17, 70: 17, 70: 19, 70: 20,  
70: 21, 71: 17, 71: 18, 71: 19, 72: 4, 72: 13,  
72: 24, 73: 2, 74: 6, 74: 8, 75: 5, 75: 12,  
75: 14, 75: 21, 75: 23, 75: 25, 76: 2, 76: 6,



76: 7, 76: 13, 76: 16, 76: 18, 76: 19, 77: 1, 77: 2, 77: 7, 77: 9, 77: 13, 77: 14, 77: 18, 77: 19, 77: 22, 77: 25, 78: 1, 78: 15, 78: 25, 79: 4, 80: 3, 80: 4, 80: 11, 80: 14, 80: 18, 80: 21, 81: 1, 82: 4, 82: 5, 82: 8, 82: 9, 82: 12, 82: 17, 83: 4, 83: 15, 83: 19, 83: 22, 83: 25, 84: 3, 84: 6, 84: 20, 85: 10, 85: 19, 85: 22, 85: 25, 86: 23, 87: 7, 87: 11, 87: 12, 87: 14, 88: 2, 89: 7, 89: 20, 89: 25, 90: 5, 90: 7, 90: 10, 91: 19, 92: 5, 92: 9, 92: 15, 92: 23, 93: 1, 93: 12, 93: 15, 93: 17, 93: 24, 94: 3, 94: 9, 94: 19, 94: 22, 94: 23, 95: 1, 95: 3, 95: 7, 95: 24, 96: 2, 96: 12, 96: 13, 96: 19, 96: 22, 96: 23, 97: 6, 97: 17, 97: 21, 97: 23, 98: 8, 98: 22, 99: 5, 99: 14, 99: 23, 100: 15, 101: 18, 101: 19, 101: 24, 102: 6, 102: 11, 102: 15, 103: 12, 104: 19, 104: 21, 105: 2, 105: 4, 105: 11, 105: 12, 105: 20, 105: 21, 105: 24, 106: 2, 106: 3, 106: 4, 106: 6, 106: 7, 106: 10, 106: 12, 106: 19, 107: 12, 108: 1, 108: 10, 109: 15, 110: 7, 111: 23, 112: 7, 112: 10, 112: 11, 112: 13, 113: 2, 113: 3, 113: 8, 113: 12, 114: 2, 114: 5, 114: 7, 114: 9, 114: 10, 114: 16, 114: 19, 115: 8, 115: 18, 115: 25, 116: 1, 116: 15, 116: 18, 116: 21, 117: 1, 117: 8, 117: 14, 117: 25, 118: 4, 118: 7, 118: 19, 119: 4, 119: 15, 120: 19, 120: 23, 120: 25, 121: 7, 122: 24, 122: 25, 123: 4, 123: 5, 123: 6, 123: 7, 123: 9, 123: 11, 123: 12, 123: 21, 124: 13, 124: 14, 124: 15, 124: 17, 124: 21, 125: 1, 125: 2, 125: 3, 125: 10, 125: 17, 126: 1, 126: 4  
**their** - 2: 4, 32: 3, 33: 25, 41: 19, 55: 21, 90: 8, 104: 16  
**them** - 2: 5, 2: 23, 3: 22, 4: 9, 4: 13, 4: 21, 13: 2, 25: 14, 41: 18, 44: 23, 55: 1, 63: 12, 71: 4, 71: 5, 71: 6, 71: 7, 75: 15, 77: 10, 77: 11, 90: 6, 96: 19, 98: 10, 98: 11, 104: 19, 105: 25, 116: 11, 117: 14, 118: 11, 124: 5, 124: 7, 125: 16  
**themselves** - 18: 1  
**then** - 3: 13, 5: 15, 40: 1, 67: 5, 82: 5, 101: 18, 102: 6  
**Then** - 69: 2, 95: 5, 108: 10, 123: 7  
**There** - 4: 19, 32: 7, 73: 14, 98: 11, 103: 21, 119: 6, 120: 17  
**there** - 3: 14, 13: 14, 14: 2, 22: 11, 23: 5, 31: 1, 32: 15, 41: 9, 57: 17, 57: 18, 58: 2, 64: 25, 66: 3, 67: 11, 70: 15, 70: 18, 81: 10, 88: 18, 97: 20, 98: 24, 99: 3, 101: 22, 105: 5, 106: 16, 108: 12, 109: 17, 125: 16  
**there's** - 13: 2, 16: 12, 23: 10, 40: 9, 54: 25, 73: 17, 102: 11  
**There's** - 4: 20, 4: 22, 12: 6, 24: 15, 38: 21, 41: 3, 44: 8, 46: 9, 104: 24  
**These** - 3: 23, 87: 13  
**these** - 4: 7, 4: 23, 5: 7, 12: 25, 16: 23, 25: 18, 49: 17, 56: 20, 67: 8, 85: 25, 86: 22, 114: 22, 122: 19  
**thesis** - 69: 1  
**They** - 3: 5, 4: 4, 4: 7, 4: 12, 4: 20, 10: 16, 21: 2, 33: 17, 43: 12, 45: 12, 45: 23, 55: 15, 68: 3, 88: 5, 90: 2, 97: 23, 97: 25, 98: 8, 98: 20, 99: 3, 112: 11, 120: 25, 122: 25  
**they** - 3: 6, 3: 16, 3: 17, 4: 3, 4: 10, 4: 22, 10: 19, 10: 20, 18: 8, 27: 20, 27: 24, 28: 2, 33: 16, 34: 24, 35: 21, 36: 5, 36: 6, 36: 7, 48: 11, 55: 20, 57: 7, 58: 3, 58: 4, 60: 16, 68: 12, 89: 10, 90: 10, 92: 25, 95: 3, 98: 14, 98: 19, 98: 23, 99: 1, 99: 2, 99: 25, 104: 16, 108: 5, 112: 10, 113: 6, 113: 7, 116: 1, 124: 7, 124: 14, 124: 19  
**they'll** - 39: 11, 54: 17, 69: 2  
**They'll** - 27: 13, 106: 25, 107: 12  
**they're** - 72: 8, 93: 21  
**They're** - 75: 23, 90: 6, 93: 22, 99: 15, 117: 14  
**thin** - 89: 18  
**thing** - 11: 18, 12: 9, 18: 11, 23: 5,

23: 11, 57: 6, 65: 24, 72: 23, 100: 23  
**things** - 3: 11, 11: 16, 58: 1, 58: 2, 58: 17, 73: 12, 81: 10, 102: 13, 105: 18, 118: 7, 126: 1  
**think** - 2: 20, 2: 24, 2: 25, 11: 12, 11: 17, 19: 16, 22: 11, 23: 24, 24: 3, 24: 24, 27: 20, 35: 22, 38: 9, 40: 9, 40: 10, 45: 15, 52: 25, 53: 15, 56: 1, 56: 12, 57: 13, 62: 23, 62: 25, 63: 6, 63: 8, 63: 14, 65: 3, 65: 8, 66: 6, 67: 1, 67: 9, 67: 21, 67: 22, 76: 8, 86: 2, 92: 12, 92: 14, 92: 25, 94: 14, 94: 15, 96: 8, 96: 20, 98: 14, 104: 16, 106: 3, 108: 9, 108: 16, 113: 7, 123: 18, 124: 24  
**third** - 26: 15, 26: 19  
**Thirty** - 92: 2  
**Thirty-five** - 82: 2  
**This** - 11: 11, 13: 16, 15: 24, 26: 16, 40: 6, 45: 7, 45: 20, 56: 14, 62: 6, 64: 24, 115: 8  
**this** - 2: 3, 2: 7, 2: 13, 2: 19, 3: 8, 3: 18, 3: 21, 4: 16, 5: 1, 5: 8, 10: 13, 10: 19, 11: 10, 11: 19, 11: 21, 13: 23, 14: 11, 15: 16, 18: 13, 20: 3, 20: 21, 21: 1, 23: 22, 24: 11, 24: 20, 24: 23, 26: 25, 28: 14, 29: 13, 29: 21, 30: 7, 30: 24, 31: 20, 37: 13, 39: 7, 39: 19, 40: 3, 40: 11, 40: 18, 40: 21, 41: 23, 43: 14, 43: 17, 45: 2, 49: 4, 49: 14, 49: 19, 51: 6, 55: 2, 55: 8, 56: 6, 57: 19, 57: 22, 60: 21, 61: 20, 63: 2, 63: 4, 63: 14, 63: 23, 64: 22, 65: 4, 65: 20, 70: 9, 75: 13, 75: 22, 76: 15, 77: 21, 78: 23, 81: 14, 82: 17, 83: 6, 83: 20, 83: 24, 84: 17, 85: 12, 89: 7, 89: 18, 90: 21, 93: 16, 93: 17, 93: 18, 94: 8, 96: 2, 96: 9, 99: 4, 99: 20, 100: 20, 102: 18, 103: 4, 108: 20, 112: 4, 116: 17, 118: 4, 118: 8, 119: 3, 120: 6, 121: 23, 125: 13, 125: 15  
**those** - 11: 16, 18: 15, 19: 18, 45: 10, 58: 8, 68: 1, 69: 6, 71: 10, 71: 23, 84: 15, 96: 21, 114: 13, 116: 1, 117: 13, 120: 17, 120: 23  
**though** - 11: 15, 26: 18, 32: 1, 36: 10, 102: 11, 103: 12, 112: 1, 118: 18  
**thought** - 31: 12, 64: 17, 77: 6, 78: 19, 83: 22, 98: 19, 99: 1, 115: 18, 125: 4  
**thoughts** - 21: 9, 71: 14  
**thousands** - 117: 15  
**Three** - 6: 4, 9: 20, 17: 17, 21: 11  
**three** - 2: 21, 2: 22, 10: 11, 20: 22, 21: 6, 57: 11, 96: 18  
**through** - 3: 21, 5: 13, 5: 14, 68: 22, 124: 18  
**throughout** - 49: 11  
**time** - 11: 8, 11: 15, 16: 18, 18: 3, 19: 23, 28: 21, 32: 10, 33: 21, 46: 15, 56: 18, 58: 9, 61: 14, 64: 7, 69: 17, 77: 7, 93: 15, 102: 11, 105: 4, 105: 18, 122: 1, 123: 6  
**times** - 20: 22, 39: 25, 72: 4, 75: 6, 100: 1, 107: 24, 108: 10  
**tired** - 46: 11  
**to** - 2: 9, 2: 20, 2: 23, 3: 3, 3: 7, 3: 11, 3: 14, 3: 15, 3: 16, 3: 18, 3: 22, 4: 7, 4: 12, 4: 23, 5: 7, 5: 9, 5: 10, 5: 20, 5: 21, 6: 1, 6: 8, 6: 10, 6: 23, 7: 2, 10: 19, 11: 2, 11: 5, 11: 6, 11: 11, 11: 16, 11: 23, 11: 24, 12: 4, 12: 5, 12: 9, 13: 2, 13: 3, 13: 4, 13: 8, 13: 24, 14: 18, 14: 19, 14: 24, 15: 3, 15: 10, 17: 2, 18: 5, 18: 12, 19: 11, 19: 18, 19: 20, 20: 2, 20: 3, 21: 4, 21: 5, 21: 14, 22: 3, 22: 5, 22: 12, 22: 14, 22: 17, 22: 20, 23: 9, 23: 10, 23: 12, 23: 15, 23: 18, 23: 23, 23: 25, 24: 1, 24: 11, 24: 12, 24: 19, 24: 20, 24: 22, 25: 15, 25: 17, 25: 19, 26: 22, 27: 4, 27: 18, 27: 19, 27: 24, 28: 19, 29: 20, 29: 21, 30: 6, 30: 25, 31: 7, 32: 17, 33: 25, 34: 4, 34: 21, 35: 10, 35: 13, 35: 24, 36: 3, 36: 5, 36: 19, 36: 23, 36: 25, 37: 12, 37: 20, 38: 2, 38: 10, 38: 12, 38: 17, 38: 23, 39: 2, 39: 5, 39: 6, 39: 7, 39: 9, 39: 12, 39: 13, 39: 14, 41: 10, 41: 11, 41: 16, 41: 19, 43: 10, 43: 14,

43: 17, 44: 10, 44: 13, 45: 2, 45: 3, 45: 22, 47: 9, 48: 19, 49: 13, 50: 11, 50: 15, 50: 22, 51: 13, 52: 14, 54: 16, 54: 19, 55: 9, 55: 11, 55: 14, 55: 21, 56: 13, 56: 21, 57: 14, 57: 23, 58: 18, 59: 1, 59: 23, 60: 8, 60: 12, 60: 14, 61: 3, 61: 25, 62: 12, 62: 14, 62: 17, 63: 6, 63: 10, 63: 12, 63: 13, 63: 14, 64: 2, 64: 10, 64: 16, 64: 18, 65: 11, 65: 15, 66: 8, 66: 9, 67: 7, 67: 10, 68: 1, 68: 16, 69: 3, 69: 6, 70: 8, 70: 17, 71: 9, 71: 18, 72: 5, 72: 8, 72: 23, 73: 3, 73: 4, 74: 2, 75: 3, 75: 5, 76: 7, 76: 10, 76: 18, 77: 8, 77: 10, 77: 18, 77: 21, 77: 22, 77: 25, 78: 16, 78: 22, 79: 2, 80: 3, 80: 4, 80: 7, 80: 14, 80: 25, 82: 4, 82: 5, 82: 6, 83: 3, 83: 6, 83: 25, 85: 15, 85: 22, 85: 23, 86: 24, 87: 9, 89: 7, 89: 10, 91: 12, 93: 2, 93: 14, 93: 16, 93: 17, 93: 18, 93: 22, 93: 25, 94: 5, 94: 6, 94: 8, 94: 9, 94: 10, 94: 18, 95: 3, 95: 5, 95: 9, 95: 25, 96: 2, 96: 15, 96: 23, 97: 7, 97: 13, 99: 18, 99: 22, 100: 9, 101: 3, 102: 4, 102: 5, 103: 7, 103: 12, 104: 13, 104: 18, 104: 21, 104: 22, 104: 25, 105: 12, 105: 13, 105: 21, 105: 24, 106: 2, 106: 4, 106: 5, 106: 7, 107: 16, 109: 1, 110: 10, 111: 1, 111: 11, 112: 2, 112: 25, 113: 6, 113: 9, 114: 3, 114: 22, 114: 23, 115: 16, 116: 8, 116: 15, 117: 1, 117: 16, 118: 11, 118: 13, 118: 17, 118: 22, 119: 3, 119: 4, 119: 6, 120: 5, 120: 6, 120: 22, 121: 21, 122: 18, 122: 23, 123: 5, 123: 12, 123: 16, 123: 19, 124: 4, 124: 6, 124: 9, 124: 13, 124: 17, 124: 18, 124: 24, 125: 2, 125: 3, 125: 9, 125: 11, 126: 2, 126: 6  
**To** - 63: 7  
**Today** - 54: 11, 85: 8  
**today** - 14: 1, 19: 23, 20: 9, 21: 22, 21: 25, 25: 9, 30: 15, 47: 9, 51: 3, 63: 24, 64: 3, 76: 1, 79: 24, 82: 25, 97: 11, 100: 25, 103: 24, 107: 5, 107: 20, 117: 22, 119: 25  
**today's** - 3: 10  
**together** - 77: 12  
**told** - 11: 6, 31: 14, 40: 5, 57: 5, 72: 12, 76: 21, 77: 13, 80: 25, 114: 22, 114: 23, 122: 1  
**Tomorrow** - 126: 3  
**tomorrow** - 64: 6, 75: 4, 75: 22, 75: 24, 125: 24, 126: 2  
**too** - 20: 11, 60: 22, 89: 18  
**took** - 10: 14, 30: 23, 49: 4, 49: 10, 50: 9, 101: 17, 124: 8  
**touch** - 68: 10  
**tough** - 48: 10  
**track** - 17: 25, 93: 15  
**tracking** - 93: 16  
**tracks** - 123: 12, 124: 15  
**traditionally** - 60: 17  
**Train** - 81: 25  
**train** - 10: 14, 42: 23, 65: 4, 81: 24, 87: 22, 88: 2, 89: 20, 99: 23, 101: 18, 101: 22  
**training** - 99: 11, 99: 15  
**trains** - 88: 5  
**Transcript** - 1: 9  
**transcript** - 1: 25  
**Transit** - 32: 21, 120: 10, 123: 10  
**Transportation** - 85: 20  
**trap** - 92: 25  
**treasurer** - 86: 20  
**treated** - 78: 19, 98: 14, 109: 6  
**trial** - 18: 12, 54: 21, 61: 23, 72: 3, 72: 5, 77: 23, 77: 24, 83: 15, 83: 16, 106: 2, 106: 6, 108: 4  
**Trial** - 1: 9  
**tried** - 11: 2  
**trooper** - 49: 11, 50: 9, 50: 19  
**trouble** - 10: 12, 20: 11, 20: 12, 21: 8, 23: 7, 23: 8, 26: 21, 28: 13, 51: 5  
**troubles** - 20: 10  
**True** - 12: 8, 55: 19

|   |   |   |
|---|---|---|
| <p><b>true</b> - 66: 2, 72: 6<br/> <b>truth</b> - 22: 12, 23: 10, 32: 17<br/> <b>try</b> - 38: 12<br/> <b>try</b> - 12: 14, 22: 12, 23: 12, 23: 23, 24: 1, 24: 4, 24: 5, 29: 20, 37: 11, 37: 12, 37: 14, 37: 17, 37: 20, 37: 23, 37: 24, 38: 1, 38: 2, 38: 11, 38: 13, 39: 24, 55: 6, 57: 25, 68: 2, 68: 16, 70: 10, 70: 23, 72: 16, 72: 17, 94: 11, 94: 12<br/> <b>trying</b> - 23: 12, 27: 19, 50: 21, 67: 7, 122: 23, 124: 12<br/> <b>Tuesday</b> - 99: 14, 103: 7, 126: 6<br/> <b>turf</b> - 56: 20<br/> <b>turn</b> - 54: 24<br/> <b>turned</b> - 67: 5, 123: 5<br/> <b>Twelve</b> - 110: 6<br/> <b>Twenty</b> - 43: 1<br/> <b>twenty</b> - 11: 2, 18: 2, 18: 4, 46: 17, 47: 4<br/> <b>twenty-five</b> - 11: 2, 18: 2, 18: 4, 46: 17, 47: 4<br/> <b>twenty-six</b> - 46: 17<br/> <b>twice</b> - 82: 6, 90: 20<br/> <b>Two</b> - 6: 3, 9: 3, 15: 17, 57: 10, 83: 12, 109: 25, 111: 20<br/> <b>two</b> - 51: 13, 58: 2, 64: 9, 82: 5, 90: 7, 93: 10, 93: 11, 96: 12, 98: 11, 101: 1, 108: 10<br/> <b>type</b> - 57: 6, 67: 5<br/> <b>typo</b> - 78: 2</p>  | <p><b>use</b> - 24: 1, 56: 14<br/> <b>used</b> - 43: 10<br/> <b>Usually</b> - 85: 18<br/> <b>usually</b> - 37: 21, 37: 24, 68: 5, 72: 17</p>  | <p><b>watching</b> - 43: 12, 67: 6<br/> <b>way</b> - 3: 6, 18: 6, 32: 9, 39: 8, 44: 1, 47: 9, 50: 15, 56: 24, 57: 1, 57: 3, 93: 12, 102: 13, 125: 6<br/> <b>we</b> - 2: 20, 2: 24, 3: 21, 4: 13, 5: 2, 5: 21, 6: 8, 11: 14, 13: 3, 26: 9, 27: 15, 27: 16, 27: 19, 27: 25, 41: 17, 47: 10, 64: 24, 68: 22, 68: 23, 68: 24, 69: 4, 75: 21, 75: 24, 76: 5, 76: 25, 77: 6, 77: 7, 77: 11, 78: 2, 87: 6, 97: 23, 97: 25, 119: 21, 123: 11, 123: 20, 123: 22, 124: 18, 125: 25<br/> <b>We</b> - 2: 25, 4: 18, 5: 6, 13: 19, 17: 15, 21: 10, 39: 19, 43: 12, 55: 20, 60: 3, 64: 14, 64: 16, 65: 11, 68: 24, 69: 6, 71: 10, 73: 8, 75: 2, 75: 6, 75: 21, 75: 22, 77: 9, 77: 21, 87: 9, 97: 22, 99: 13, 103: 21, 121: 25, 123: 21<br/> <b>We'll</b> - 4: 25, 5: 20, 12: 25, 30: 6, 63: 17, 67: 21, 75: 24, 75: 25, 97: 7, 107: 18, 115: 13, 117: 16<br/> <b>we'll</b> - 5: 15, 5: 17, 64: 5, 76: 4, 77: 11, 77: 25<br/> <b>We're</b> - 34: 21, 47: 9, 57: 19, 69: 2, 74: 2, 75: 25, 107: 16<br/> <b>we're</b> - 75: 15, 76: 13<br/> <b>We've</b> - 2: 24<br/> <b>we've</b> - 77: 8<br/> <b>weather</b> - 89: 19, 109: 16<br/> <b>Wednesday</b> - 99: 15<br/> <b>week</b> - 75: 6, 98: 11, 98: 18, 101: 1, 109: 4<br/> <b>weekend</b> - 78: 1<br/> <b>weeks</b> - 68: 6, 77: 5<br/> <b>weigh</b> - 20: 4, 21: 3<br/> <b>weight</b> - 16: 18, 17: 1, 17: 2, 21: 14, 125: 9<br/> <b>Weinstein</b> - 1: 9<br/> <b>Weinstein's</b> - 31: 25<br/> <b>well</b> - 22: 11, 64: 6, 75: 6, 90: 1, 90: 3, 105: 7, 105: 17<br/> <b>Well</b> - 3: 11, 11: 12, 12: 6, 14: 24, 18: 22, 20: 7, 31: 21, 33: 8, 33: 24, 35: 23, 43: 8, 43: 16, 59: 22, 60: 15, 60: 24, 70: 5, 70: 10, 71: 14, 72: 18, 72: 21, 91: 11, 99: 4, 102: 15, 105: 4, 105: 17, 106: 1, 113: 6, 120: 14<br/> <b>went</b> - 25: 19, 97: 23, 97: 25, 99: 14, 116: 15, 123: 12<br/> <b>Were</b> - 46: 14, 90: 10<br/> <b>were</b> - 4: 5, 14: 8, 26: 14, 26: 18, 31: 16, 31: 25, 32: 7, 33: 18, 33: 23, 41: 21, 56: 22, 57: 7, 65: 4, 88: 25, 92: 19, 93: 12, 98: 14, 99: 1, 107: 23, 108: 10, 117: 15, 120: 23, 121: 16, 123: 21, 123: 23<br/> <b>What</b> - 4: 3, 10: 25, 13: 13, 17: 22, 25: 19, 25: 24, 26: 3, 28: 23, 30: 19, 37: 18, 40: 25, 41: 9, 42: 19, 43: 12, 45: 22, 46: 22, 46: 25, 48: 2, 48: 4, 48: 8, 48: 15, 49: 24, 53: 8, 57: 1, 57: 3, 58: 3, 58: 5, 59: 5, 59: 21, 60: 23, 61: 1, 61: 9, 61: 24, 63: 3, 64: 7, 64: 10, 65: 20, 65: 24, 69: 15, 71: 1, 82: 3, 83: 7, 85: 13, 86: 17, 89: 24, 90: 8, 90: 17, 91: 13, 91: 19, 92: 8, 92: 23, 96: 15, 96: 20, 97: 24, 101: 2, 101: 24, 104: 10, 108: 3, 109: 18, 111: 17, 115: 4, 116: 10, 119: 2, 120: 8, 121: 2, 121: 8, 122: 20<br/> <b>what</b> - 4: 10, 5: 21, 10: 19, 10: 20, 16: 21, 20: 4, 21: 2, 22: 15, 23: 4, 23: 6, 23: 12, 23: 16, 23: 17, 23: 25, 24: 7, 24: 23, 28: 2, 31: 4, 33: 1, 33: 16, 34: 22, 35: 14, 35: 16, 35: 22, 36: 23, 36: 24, 36: 25, 37: 4, 37: 9, 37: 14, 38: 3, 38: 10, 40: 23, 42: 19, 46: 6, 50: 21, 53: 1, 53: 24, 56: 13, 56: 14, 56: 24, 57: 5, 57: 14, 57: 23, 59: 15, 59: 25, 60: 16, 61: 7, 63: 1, 63: 5, 63: 13, 67: 4, 67: 7, 67: 9, 68: 12, 70: 2, 70: 19, 70: 21, 72: 8, 72: 9, 72: 17, 73: 1, 75: 11, 75: 24, 77: 25, 82: 17, 90: 18, 94: 10, 98: 5, 98: 24, 105: 6, 109: 20, 115: 22, 116: 15, 118: 6, 118: 8, 123: 3, 124: 15, 124: 18, 125: 3,</p> |
| <p><b>U</b></p> <p><b>ultimatum</b> - 124: 16<br/> <b>unable</b> - 75: 3<br/> <b>uncle</b> - 52: 21, 78: 17, 90: 9<br/> <b>uncle's</b> - 78: 21<br/> <b>Uncles</b> - 57: 8<br/> <b>uncles</b> - 57: 10<br/> <b>uncomfortable</b> - 61: 19, 64: 17, 65: 13, 65: 18, 65: 20, 65: 23, 65: 25, 66: 4, 67: 2, 67: 4<br/> <b>under</b> - 2: 17, 80: 19, 121: 21<br/> <b>Under</b> - 123: 12<br/> <b>underlined</b> - 22: 10<br/> <b>understand</b> - 2: 23, 10: 18, 11: 10, 14: 24, 17: 4, 22: 14, 22: 19, 22: 25, 23: 1, 24: 7, 24: 13, 27: 22, 29: 16, 35: 13, 35: 24, 36: 20, 36: 25, 37: 5, 38: 16, 43: 14, 44: 11, 44: 12, 44: 16, 44: 17, 44: 20, 46: 12, 50: 11, 55: 8, 55: 10, 62: 11, 71: 17, 71: 21, 73: 1, 80: 13, 80: 16, 93: 20, 94: 16, 94: 19, 94: 25, 105: 11, 105: 14, 105: 15, 105: 19, 113: 8, 114: 2, 114: 9, 119: 9, 124: 25<br/> <b>understandable</b> - 12: 6<br/> <b>understanding</b> - 100: 19<br/> <b>unemployed</b> - 92: 2, 99: 16, 99: 18<br/> <b>unfair</b> - 115: 19<br/> <b>unfairly</b> - 98: 14<br/> <b>Unfortunately</b> - 47: 8<br/> <b>unfortunately</b> - 54: 25<br/> <b>union</b> - 95: 25<br/> <b>unit</b> - 26: 5<br/> <b>United</b> - 1: 1, 1: 3, 1: 10, 1: 13, 28: 24<br/> <b>Unless</b> - 76: 5<br/> <b>unless</b> - 22: 23, 36: 6, 66: 10, 66: 11, 71: 19, 76: 6, 105: 21, 113: 7<br/> <b>Until</b> - 71: 19<br/> <b>until</b> - 22: 23, 44: 25, 75: 21, 80: 15, 94: 19, 103: 7, 114: 23<br/> <b>up</b> - 11: 6, 14: 2, 21: 6, 45: 6, 54: 13, 54: 17, 54: 19, 55: 18, 56: 13, 56: 18, 56: 19, 60: 21, 63: 3, 64: 14, 65: 10, 65: 12, 67: 3, 77: 21, 91: 12, 91: 14, 93: 19, 96: 1, 99: 14, 99: 18, 99: 22, 126: 1<br/> <b>upright</b> - 13: 9<br/> <b>upset</b> - 33: 18<br/> <b>upstanding</b> - 45: 8<br/> <b>upstate</b> - 121: 4<br/> <b>Us</b> - 1: 4, 1: 15<br/> <b>us</b> - 31: 14, 67: 18, 99: 5, 124: 24</p> | <p><b>V</b></p> <p><b>v</b> - 1: 4<br/> <b>Va</b> - 26: 2, 26: 7<br/> <b>Vanderbilt</b> - 69: 19<br/> <b>various</b> - 96: 13<br/> <b>verdict</b> - 14: 19, 32: 23, 102: 5, 108: 6<br/> <b>Very</b> - 59: 14, 68: 14, 89: 15<br/> <b>very</b> - 12: 4, 24: 10, 34: 11, 36: 10, 38: 7, 56: 19, 60: 5, 70: 4, 71: 9, 72: 23, 73: 12, 77: 3, 88: 3, 90: 3, 94: 12, 96: 24, 105: 7, 117: 4, 119: 4, 123: 22, 125: 13, 125: 19<br/> <b>veterans</b> - 26: 11, 68: 3<br/> <b>Veterans</b> - 68: 4, 68: 12<br/> <b>vice</b> - 86: 20<br/> <b>victim</b> - 112: 8, 124: 21<br/> <b>victims</b> - 34: 3, 34: 7<br/> <b>Victor</b> - 52: 22<br/> <b>view</b> - 82: 14<br/> <b>violence</b> - 71: 15, 72: 25, 73: 2<br/> <b>violent</b> - 72: 19, 73: 16, 73: 18<br/> <b>visibly</b> - 66: 19<br/> <b>vote</b> - 125: 16, 125: 18</p>  |   |
|   | <p><b>W</b></p> <p><b>Wait</b> - 12: 19, 63: 20, 66: 15<br/> <b>wait</b> - 38: 24<br/> <b>waiting</b> - 12: 16, 34: 21, 76: 13, 99: 22<br/> <b>waitstaffing</b> - 122: 22<br/> <b>waive</b> - 76: 7, 76: 8, 76: 14<br/> <b>want</b> - 3: 3, 12: 9, 15: 10, 18: 13, 38: 10, 39: 5, 51: 13, 56: 17, 57: 23, 61: 2, 61: 3, 61: 20, 63: 14, 64: 10, 77: 21, 77: 25, 78: 16, 80: 4, 106: 4, 119: 4<br/> <b>wanted</b> - 3: 7, 4: 4, 4: 10, 11: 5, 11: 6, 27: 18, 31: 6, 64: 18, 80: 7, 97: 13<br/> <b>wants</b> - 33: 25, 76: 7<br/> <b>warm</b> - 35: 7<br/> <b>warrant</b> - 98: 23<br/> <b>wars</b> - 56: 20<br/> <b>was</b> - 3: 8, 3: 10, 3: 13, 3: 14, 4: 19, 5: 5, 6: 23, 10: 11, 11: 1, 11: 3, 11: 19, 12: 3, 13: 10, 17: 22, 17: 23, 17: 24, 19: 8, 19: 25, 22: 10, 23: 7, 23: 12, 23: 17, 23: 24, 24: 18, 24: 19, 24: 23, 25: 21, 26: 16, 26: 19, 26: 20, 27: 24, 31: 1, 31: 8, 31: 24, 31: 25, 32: 2, 32: 9, 32: 10, 32: 17, 32: 22, 33: 19, 33: 22, 33: 25, 34: 2, 34: 4, 34: 8, 39: 7, 39: 10, 39: 13, 39: 16, 39: 17, 39: 25, 40: 4, 41: 22, 43: 6, 43: 7, 43: 22, 43: 23, 43: 24, 45: 5, 45: 6, 49: 11, 49: 24, 50: 7, 50: 9, 50: 20, 51: 17, 52: 17, 52: 18, 52: 21, 56: 1, 56: 19, 57: 18, 58: 7, 58: 9, 60: 24, 61: 8, 61: 10, 61: 25, 64: 16, 64: 25, 67: 7, 67: 9, 69: 17, 69: 24, 69: 25, 70: 2, 70: 5, 72: 23, 73: 10, 75: 12, 76: 17, 77: 3, 77: 13, 77: 23, 77: 24, 78: 2, 78: 17, 78: 19, 79: 9, 83: 17, 83: 22, 84: 1, 86: 2, 87: 11, 88: 4, 88: 12, 89: 17, 90: 8, 91: 25, 92: 23, 93: 4, 93: 5, 94: 18, 95: 1, 95: 3, 95: 11, 95: 16, 96: 25, 97: 24, 98: 11, 98: 23, 99: 3, 100: 11, 101: 1, 103: 7, 103: 22, 104: 20, 107: 24, 108: 4, 108: 7, 108: 8, 108: 9, 108: 10, 108: 11, 111: 24, 112: 10, 115: 8, 115: 16, 115: 19, 116: 2, 116: 10, 116: 16, 117: 6, 117: 7, 117: 9, 120: 14, 121: 3, 121: 8, 121: 11, 123: 5, 123: 6, 123: 10, 123: 15, 124: 6, 124: 14, 124: 16, 124: 18, 124: 20, 124: 21, 125: 5, 125: 18<br/> <b>Was</b> - 11: 12, 32: 12, 76: 20, 90: 13, 93: 3, 116: 3, 120: 15<br/> <b>wasn't</b> - 34: 1, 41: 2, 56: 6, 77: 1, 78: 24, 98: 24, 99: 2<br/> <b>watch</b> - 43: 11, 73: 16</p> |   |

125: 4  
**What's** - 52: 21, 61: 5, 94: 3, 94: 22, 113: 5  
**what's** - 19: 24, 61: 3, 61: 4  
**whatever** - 60: 17, 98: 23, 125: 17  
**Whatever** - 50: 14, 61: 13  
**whatnot** - 85: 16  
**whatsoever** - 125: 9  
**When** - 19: 15, 24: 23, 37: 20, 37: 24, 38: 2, 58: 4, 69: 4, 99: 12, 108: 8  
**when** - 4: 21, 33: 18, 33: 22, 35: 20, 37: 2, 37: 12, 39: 25, 43: 7, 45: 3, 48: 18, 55: 20, 56: 13, 56: 18, 61: 13, 63: 9, 64: 25, 66: 20, 68: 5, 94: 8, 96: 25, 99: 14  
**where** - 58: 18, 111: 2, 116: 10, 124: 14  
**Where** - 25: 21, 30: 17, 31: 20, 40: 23, 46: 6, 51: 8, 53: 11, 53: 24, 54: 2, 59: 15, 59: 17, 78: 10, 78: 14, 81: 22, 83: 11, 85: 5, 85: 9, 87: 19, 89: 22, 101: 13, 101: 19, 104: 5  
**whether** - 12: 9, 22: 6, 28: 1, 59: 1, 60: 12, 67: 8  
**which** - 3: 8, 3: 16, 12: 25, 13: 6, 18: 12, 24: 22, 26: 5, 26: 6, 27: 20, 39: 10, 73: 10, 109: 5  
**Which** - 6: 25, 26: 6, 33: 3, 52: 18, 68: 8, 83: 19  
**While** - 76: 13, 115: 10  
**while** - 11: 4, 11: 19  
**white** - 11: 7, 50: 8, 50: 10  
**Who** - 46: 18, 49: 8, 85: 17, 95: 6, 98: 3, 111: 13  
**who** - 3: 12, 3: 15, 3: 16, 3: 17, 7: 1, 16: 18, 17: 2, 17: 3, 17: 25, 19: 18, 20: 13, 23: 21, 27: 24, 32: 2, 32: 19, 33: 6, 36: 11, 38: 3, 39: 11, 39: 17, 40: 4, 49: 6, 50: 8, 56: 21, 56: 22, 57: 11, 57: 17, 58: 7, 58: 9, 72: 1, 80: 13, 82: 9, 87: 10, 92: 5, 93: 17, 103: 22, 107: 16, 111: 24, 112: 7, 120: 2  
**whole** - 45: 6, 75: 25, 90: 20  
**Wholesale** - 47: 1  
**Why** - 4: 7, 4: 8, 56: 11, 58: 15, 65: 13, 79: 5, 86: 1, 96: 10, 98: 16, 98: 21, 105: 3  
**why** - 18: 5, 60: 18, 64: 17, 65: 18, 119: 6  
**wife** - 11: 20, 11: 23, 12: 12  
**Will** - 17: 6, 17: 9, 26: 22, 27: 3, 29: 13, 31: 11, 33: 11, 34: 4, 41: 18, 43: 5, 45: 2, 52: 24, 53: 1, 63: 1, 70: 8, 70: 19, 71: 23, 81: 1, 86: 14, 86: 24, 88: 18, 92: 13, 94: 12, 96: 2, 97: 20, 100: 20, 108: 12, 108: 15, 113: 15, 114: 16, 116: 20, 118: 6, 118: 10, 120: 19, 121: 5, 121: 18, 122: 3, 123: 16  
**will** - 4: 23, 12: 10, 13: 12, 14: 5, 15: 3, 15: 4, 15: 6, 17: 1, 19: 23, 20: 7, 25: 14, 29: 16, 34: 3, 34: 7, 34: 23, 35: 10, 37: 4, 37: 6, 40: 11, 43: 8, 61: 22, 66: 7, 68: 2, 68: 11, 68: 16, 70: 12, 73: 14, 76: 3, 76: 6, 76: 8, 81: 3, 83: 24, 84: 4, 86: 22, 87: 3, 87: 13, 87: 14, 89: 2, 94: 10, 94: 11, 94: 14, 94: 15, 102: 16, 105: 25, 106: 8, 117: 11, 118: 3  
**willing** - 23: 12  
**wind** - 41: 3, 46: 9  
**winter** - 16: 11, 25: 15  
**wish** - 10: 11  
**with** - 2: 9, 7: 3, 11: 5, 11: 11, 12: 12, 13: 6, 15: 13, 16: 19, 17: 19, 17: 25, 19: 11, 20: 10, 20: 12, 21: 6, 24: 4, 25: 24, 26: 6, 27: 21, 28: 13, 36: 2, 36: 4, 37: 3, 39: 11, 39: 21, 40: 3, 41: 16, 43: 9, 44: 6, 46: 23, 51: 15, 53: 10, 55: 4, 57: 13, 59: 24, 60: 9, 63: 7, 64: 25, 65: 3, 65: 6, 65: 9, 65: 25, 66: 22, 67: 25, 68: 11, 71: 15, 71: 16, 72: 21, 72: 23, 72: 24, 73: 2, 73: 8, 76: 18, 76: 22, 77: 2, 77: 3, 77: 5, 77: 19, 78: 17, 79: 4, 80: 23, 82: 15, 85: 25, 86: 18, 90: 5, 90: 19, 92: 16, 93: 12, 94: 17, 96: 1, 96: 15, 102: 21, 104: 17, 104: 18, 104: 19, 105: 2, 105: 16, 105: 18, 106: 2, 106: 7, 106: 12, 107: 18, 108: 5, 114: 23, 116: 25, 122: 19,

124: 11, 125: 4, 125: 17  
**With** - 6: 10  
**withdrew** - 120: 25  
**without** - 13: 2, 19: 24, 41: 18, 57: 3  
**witness** - 14: 17, 14: 20, 14: 25, 15: 14, 16: 15, 17: 19, 21: 3, 21: 15, 39: 19, 92: 19, 102: 3, 102: 6, 115: 16, 124: 4  
**witness'** - 102: 25  
**witness's** - 21: 3  
**witnessed** - 124: 6  
**witnesses** - 3: 13, 14: 14, 15: 4, 16: 13, 16: 23, 16: 24, 17: 2, 17: 3, 17: 25, 41: 17, 102: 21  
**witnesses's** - 21: 1  
**woman** - 56: 9  
**women** - 85: 15  
**women-owned** - 85: 15  
**won't** - 63: 12, 70: 13, 79: 23  
**wonder** - 67: 10  
**wonderful** - 26: 13  
**word** - 23: 25, 50: 18, 56: 15, 56: 16  
**words** - 39: 10, 56: 14  
**work** - 24: 19, 26: 1, 26: 13, 27: 20, 28: 23, 33: 16, 33: 17, 37: 18, 37: 19, 37: 20, 37: 21, 48: 25, 50: 14, 68: 11, 71: 1, 77: 11, 83: 7, 86: 18, 91: 19, 92: 1, 92: 3, 96: 13, 109: 18, 111: 15, 120: 8, 121: 14, 122: 20, 123: 3, 123: 13  
**worked** - 11: 4, 31: 2, 32: 19, 49: 6, 50: 8, 93: 13, 96: 12, 111: 13, 111: 22, 121: 7, 123: 4, 123: 6  
**working** - 11: 3, 90: 1, 90: 3, 104: 1, 104: 2  
**works** - 41: 19, 49: 2, 92: 5, 115: 23  
**Would** - 2: 5, 12: 16, 22: 3, 38: 5, 38: 24, 49: 13, 60: 5, 60: 8, 62: 21, 78: 21, 81: 13, 82: 16, 86: 7, 102: 9, 107: 4, 111: 1, 114: 19, 120: 5, 124: 9, 124: 16, 126: 2  
**would** - 2: 20, 13: 3, 14: 10, 14: 17, 18: 12, 18: 20, 19: 16, 19: 18, 20: 10, 20: 11, 20: 12, 20: 23, 20: 24, 21: 8, 22: 11, 22: 12, 23: 7, 23: 8, 23: 9, 23: 20, 24: 1, 24: 2, 24: 4, 24: 5, 25: 17, 27: 5, 27: 21, 30: 8, 30: 25, 32: 14, 32: 24, 45: 9, 47: 8, 61: 21, 64: 16, 66: 9, 71: 12, 71: 25, 72: 16, 72: 20, 73: 11, 73: 20, 73: 22, 75: 3, 76: 10, 77: 7, 77: 9, 79: 1, 79: 12, 85: 22, 86: 3, 86: 4, 87: 9, 91: 11, 93: 19, 96: 6, 102: 4, 104: 24, 106: 9, 114: 23, 117: 8, 118: 17, 124: 16, 124: 24, 125: 16, 125: 17  
**wouldn't** - 32: 23, 95: 19, 100: 22  
**Wouldn't** - 80: 5  
**write** - 70: 24, 71: 2, 71: 6  
**writer** - 62: 8  
**wrong** - 11: 7, 58: 19, 65: 4, 83: 22, 105: 5, 105: 8  
**wrote** - 18: 5, 18: 6, 102: 7, 105: 2

## X

x - 1: 2, 1: 7

## Y

**Yeah** - 80: 17, 80: 24, 82: 7, 82: 11, 88: 15, 88: 17, 97: 16, 97: 19, 98: 15, 99: 25, 102: 8, 105: 23  
**yeah** - 98: 1, 98: 25, 99: 6, 105: 10  
**years** - 11: 2, 13: 7, 18: 3, 18: 4, 26: 17, 46: 16, 46: 17, 47: 4, 93: 2, 93: 15, 96: 12, 100: 17, 104: 12, 109: 25, 110: 5, 110: 6, 111: 20, 122: 22, 124: 19  
**Yes** - 2: 6, 2: 12, 4: 2, 4: 18, 5: 4, 5: 11, 6: 12, 10: 15, 10: 23, 12: 2, 14: 4, 14: 7, 14: 9, 14: 22, 14: 23, 15: 6, 15: 9, 15: 11, 15: 18, 16: 8, 16: 10, 17: 5, 17: 7, 18: 25, 20: 18, 22: 16, 22: 22, 24: 1, 24: 17, 25: 13, 26: 9, 27: 2, 27: 5, 27: 17, 28: 22, 29: 3, 29: 8, 29: 10, 29: 12, 29: 22, 31: 17, 32: 11, 32: 18, 35: 12, 35: 19, 36: 9, 37: 6, 37: 17,

38: 13, 38: 15, 38: 18, 39: 19, 41: 8, 41: 20, 41: 22, 42: 1, 42: 11, 43: 23, 44: 19, 47: 10, 48: 3, 48: 7, 48: 12, 50: 5, 50: 7, 50: 13, 50: 17, 51: 12, 51: 20, 53: 3, 54: 12, 54: 22, 55: 10, 55: 17, 55: 22, 56: 1, 56: 5, 56: 8, 56: 10, 59: 20, 60: 7, 60: 10, 61: 16, 61: 21, 62: 20, 62: 22, 64: 5, 65: 2, 65: 7, 65: 16, 66: 2, 67: 24, 68: 5, 69: 19, 70: 14, 70: 23, 70: 25, 72: 2, 74: 9, 78: 18, 78: 20, 79: 9, 79: 13, 79: 16, 80: 20, 81: 3, 81: 12, 81: 15, 82: 18, 83: 5, 83: 10, 84: 11, 86: 8, 86: 16, 87: 8, 88: 1, 88: 22, 88: 24, 89: 16, 90: 16, 91: 18, 91: 22, 91: 25, 92: 4, 92: 7, 92: 20, 92: 22, 93: 4, 93: 6, 93: 10, 93: 23, 94: 2, 94: 13, 95: 10, 96: 6, 99: 6, 99: 21, 100: 13, 100: 16, 100: 24, 102: 1, 102: 10, 103: 1, 104: 4, 105: 19, 106: 9, 106: 15, 107: 8, 108: 2, 109: 24, 110: 23, 111: 4, 112: 1, 112: 6, 112: 15, 113: 4, 113: 11, 113: 14, 113: 18, 114: 4, 114: 12, 114: 15, 114: 25, 115: 2, 115: 3, 115: 7, 115: 12, 115: 17, 115: 20, 116: 7, 116: 12, 116: 19, 116: 22, 116: 24, 117: 3, 117: 21, 118: 5, 118: 9, 118: 14, 118: 25, 119: 9, 119: 11, 119: 16, 120: 4, 120: 16, 121: 9, 121: 15, 121: 17, 125: 12  
**yes** - 3: 10, 10: 21, 17: 8, 19: 20, 22: 7, 23: 1, 29: 7, 34: 10, 36: 21, 38: 12, 39: 8, 40: 1, 40: 2, 41: 5, 49: 4, 49: 23, 55: 7, 57: 18, 57: 25, 59: 2, 60: 14, 62: 25, 66: 25, 70: 11, 70: 23, 71: 24, 72: 14, 83: 18, 94: 4, 94: 21, 95: 22, 100: 19, 102: 7, 104: 8, 107: 25, 114: 21, 116: 16, 120: 24, 122: 17, 124: 1  
**yes-or-no** - 38: 12, 40: 1  
**yet** - 10: 16, 71: 10, 105: 19  
**York** - 1: 1, 1: 5, 1: 16, 1: 18, 1: 20, 1: 22, 11: 4, 11: 20, 11: 22, 12: 7, 41: 6, 50: 18, 60: 2, 62: 6, 78: 11, 85: 19, 85: 20, 97: 17, 101: 15, 101: 22, 120: 10  
**You** - 5: 7, 10: 9, 12: 1, 14: 22, 16: 13, 19: 8, 19: 19, 20: 11, 20: 14, 20: 19, 22: 7, 22: 14, 24: 7, 24: 25, 25: 11, 25: 19, 26: 13, 26: 14, 26: 18, 28: 16, 28: 21, 29: 1, 29: 9, 29: 16, 31: 16, 31: 22, 32: 19, 35: 13, 35: 24, 36: 2, 36: 20, 38: 16, 41: 6, 41: 13, 41: 21, 42: 5, 43: 2, 43: 14, 43: 20, 44: 3, 44: 10, 44: 16, 45: 16, 46: 14, 47: 12, 48: 13, 48: 25, 49: 21, 49: 23, 52: 14, 54: 21, 55: 5, 55: 8, 56: 3, 56: 17, 57: 13, 59: 6, 60: 13, 61: 2, 61: 15, 61: 17, 61: 20, 62: 9, 62: 11, 63: 6, 63: 14, 65: 2, 65: 4, 65: 19, 66: 24, 67: 3, 67: 21, 67: 25, 68: 20, 69: 22, 70: 12, 70: 15, 70: 24, 71: 6, 71: 12, 71: 17, 71: 25, 73: 19, 74: 5, 77: 6, 78: 12, 78: 19, 79: 4, 79: 12, 80: 13, 80: 16, 81: 10, 82: 6, 82: 12, 83: 15, 83: 22, 84: 10, 84: 12, 85: 7, 86: 3, 88: 6, 88: 25, 90: 4, 92: 5, 92: 16, 92: 19, 93: 9, 93: 12, 93: 20, 94: 14, 94: 16, 95: 20, 98: 14, 98: 19, 99: 1, 102: 6, 102: 21, 102: 24, 104: 14, 104: 16, 105: 2, 105: 11, 106: 24, 107: 12, 107: 23, 109: 15, 111: 24, 113: 2, 113: 8, 113: 12, 114: 2, 114: 9, 114: 13, 115: 18, 116: 14, 117: 25, 119: 15, 120: 2, 121: 16, 122: 8, 123: 14, 123: 19, 125: 20  
**you** - 2: 5, 2: 11, 3: 21, 4: 5, 4: 23, 10: 9, 10: 12, 10: 18, 11: 10, 11: 15, 11: 17, 12: 7, 12: 10, 12: 11, 12: 16, 12: 18, 13: 21, 13: 22, 13: 24, 14: 5, 14: 8, 14: 13, 14: 16, 14: 18, 14: 20, 14: 24, 15: 2, 15: 4, 15: 10, 15: 13, 15: 19, 16: 3, 16: 5, 16: 14, 16: 21, 17: 1, 17: 4, 17: 6, 17: 9, 17: 18, 18: 12, 18: 15, 18: 22, 19: 6, 19: 15, 19: 16, 19: 24, 20: 3, 20: 4, 20: 7, 20: 9, 20: 14, 20: 15, 21: 20, 21: 21, 21: 23, 21: 24, 22: 5, 22: 8, 22: 9, 22: 14, 22: 15, 22: 17, 22: 25, 23: 2, 23: 14, 23: 16, 24: 2, 24: 4, 24: 25, 25: 1, 25: 8, 25: 17, 25: 24, 26: 3, 26: 6, 26: 8, 26: 10, 27: 3, 27: 13, 28: 11, 28: 12, 28: 13,

28: 17, 28: 19, 28: 23, 29: 2, 29: 4, 29: 7,  
 29: 20, 30: 2, 30: 3, 30: 14, 30: 15, 30: 17,  
 30: 22, 31: 7, 31: 12, 31: 14, 31: 25, 32: 2,  
 32: 14, 32: 15, 32: 17, 33: 6, 33: 15, 33: 18,  
 33: 23, 33: 24, 34: 1, 34: 4, 34: 9, 34: 11,  
 34: 14, 34: 15, 35: 5, 35: 7, 35: 9, 35: 10,  
 35: 13, 35: 14, 35: 16, 35: 20, 35: 25,  
 36: 13, 36: 14, 36: 15, 36: 17, 36: 20,  
 36: 23, 36: 24, 37: 1, 37: 5, 37: 8, 37: 9,  
 37: 10, 37: 12, 37: 18, 37: 20, 37: 21,  
 37: 24, 37: 25, 38: 2, 38: 5, 38: 9, 38: 24,  
 38: 25, 39: 2, 39: 5, 40: 1, 40: 5, 40: 18,  
 40: 19, 40: 20, 40: 23, 40: 25, 41: 9, 41: 18,  
 41: 23, 41: 25, 42: 6, 42: 8, 42: 15, 42: 17,  
 42: 18, 42: 19, 42: 20, 42: 22, 43: 9, 43: 12,  
 43: 14, 43: 17, 43: 24, 44: 18, 44: 20, 45: 2,  
 45: 3, 45: 9, 45: 10, 45: 14, 46: 2, 46: 3,  
 46: 4, 46: 6, 46: 14, 46: 22, 47: 3, 47: 12,  
 47: 13, 47: 15, 48: 6, 48: 18, 48: 19, 49: 5,  
 49: 16, 50: 6, 50: 11, 50: 15, 50: 16, 50: 18,  
 50: 24, 51: 3, 51: 5, 51: 8, 51: 13, 51: 14,  
 51: 17, 51: 18, 52: 2, 52: 3, 52: 9, 52: 15,  
 53: 1, 53: 14, 53: 18, 53: 22, 53: 24, 54: 4,  
 54: 13, 54: 24, 55: 1, 56: 11, 56: 17, 56: 19,  
 57: 14, 57: 22, 57: 25, 58: 1, 58: 10, 58: 12,  
 58: 15, 58: 17, 58: 18, 58: 20, 59: 1, 59: 2,  
 59: 4, 59: 7, 59: 13, 59: 15, 59: 21, 60: 5,  
 60: 8, 60: 12, 60: 17, 61: 13, 61: 15, 62: 9,  
 62: 21, 62: 23, 63: 1, 63: 6, 63: 8, 63: 10,  
 63: 11, 63: 14, 63: 17, 63: 21, 64: 7, 64: 8,  
 64: 10, 64: 22, 64: 25, 65: 8, 65: 11, 65: 13,  
 65: 20, 66: 1, 66: 6, 66: 9, 66: 10, 66: 16,  
 67: 21, 67: 22, 68: 1, 68: 5, 68: 15, 68: 19,  
 69: 3, 69: 13, 69: 15, 70: 5, 70: 8, 70: 13,  
 70: 19, 70: 21, 71: 3, 71: 13, 71: 19, 71: 20,  
 71: 23, 71: 25, 72: 3, 72: 5, 72: 9, 72: 12,  
 72: 15, 72: 17, 72: 20, 73: 1, 73: 9, 73: 10,  
 73: 21, 73: 24, 75: 19, 76: 22, 77: 6, 78: 8,  
 78: 10, 78: 14, 78: 16, 79: 1, 79: 8, 79: 22,  
 79: 23, 80: 4, 80: 5, 80: 7, 80: 10, 80: 18,  
 80: 23, 81: 1, 81: 13, 81: 16, 81: 22, 81: 24,  
 82: 16, 82: 25, 83: 1, 83: 3, 83: 6, 83: 7,  
 83: 24, 83: 25, 84: 4, 84: 14, 85: 1, 85: 3,  
 85: 4, 85: 5, 85: 9, 85: 11, 85: 22, 85: 25,  
 86: 7, 86: 13, 86: 14, 86: 17, 87: 3, 87: 17,  
 87: 19, 87: 21, 88: 2, 88: 8, 88: 18, 89: 3,  
 89: 14, 89: 16, 89: 18, 89: 22, 90: 21, 91: 3,  
 91: 7, 91: 9, 91: 19, 92: 1, 93: 7, 93: 24,  
 94: 8, 94: 10, 94: 12, 94: 14, 94: 18, 94: 19,  
 95: 9, 95: 19, 96: 2, 96: 6, 96: 20, 97: 1,  
 97: 2, 97: 10, 97: 11, 97: 13, 97: 20, 98: 18,  
 99: 3, 99: 5, 99: 18, 99: 23, 100: 3, 100: 7,  
 100: 9, 100: 10, 101: 11, 101: 12, 101: 13,  
 101: 16, 101: 19, 102: 2, 102: 4, 102: 6,  
 102: 9, 102: 10, 102: 11, 102: 16, 102: 24,  
 103: 4, 103: 11, 103: 12, 103: 14, 103: 16,  
 103: 24, 104: 3, 104: 7, 104: 10, 104: 18,  
 104: 19, 104: 24, 105: 3, 105: 9, 105: 10,  
 105: 14, 105: 16, 105: 19, 105: 20,  
 105: 24, 105: 25, 106: 4, 106: 7, 106: 8,  
 106: 10, 106: 17, 106: 19, 106: 25, 107: 4,  
 107: 5, 107: 6, 107: 7, 107: 11, 107: 12,  
 107: 20, 107: 21, 107: 22, 108: 12,  
 108: 15, 108: 25, 109: 2, 109: 5, 109: 7,  
 109: 8, 109: 9, 109: 13, 109: 18, 109: 22,  
 110: 10, 110: 13, 110: 17, 110: 22,  
 110: 24, 111: 1, 111: 5, 111: 9, 111: 11,  
 111: 13, 111: 17, 111: 19, 112: 4, 112: 13,  
 112: 17, 112: 18, 112: 23, 112: 25,  
 113: 10, 113: 17, 113: 20, 113: 25, 114: 1,  
 114: 7, 114: 16, 114: 19, 114: 22, 114: 23,  
 114: 24, 115: 21, 116: 10, 116: 17,  
 116: 20, 117: 2, 117: 4, 117: 6, 117: 9,  
 117: 22, 117: 23, 117: 24, 118: 3, 118: 6,  
 118: 8, 118: 10, 118: 11, 118: 12, 119: 2,  
 119: 15, 119: 18, 119: 19, 119: 25, 120: 5,  
 120: 8, 120: 19, 122: 9, 122: 14, 122: 16,  
 122: 20, 123: 1, 123: 24, 124: 3, 124: 9,  
 124: 13, 124: 16, 124: 17, 124: 25,  
 125: 10, 125: 19, 125: 21, 126: 2

**You'll** - 37: 16, 54: 16, 63: 9, 81: 16,  
 88: 21, 89: 3, 91: 1, 103: 14, 108: 18,  
 119: 10  
**you'll** - 24: 10, 37: 13, 68: 7, 68: 10  
**you're** - 14: 2, 36: 18, 68: 10, 72: 4,  
 94: 9, 109: 15, 110: 9, 113: 9  
**You're** - 5: 5, 14: 6, 34: 12, 50: 23, 52: 1,  
 53: 17, 56: 9, 59: 4, 65: 15, 65: 20, 67: 18,  
 68: 19, 73: 24, 80: 25, 81: 7, 81: 16, 82: 21,  
 84: 19, 85: 13, 87: 3, 89: 2, 91: 1, 91: 12,  
 91: 14, 95: 13, 97: 1, 97: 17, 99: 9, 100: 2,  
 101: 4, 101: 6, 103: 2, 103: 8, 104: 1,  
 106: 24, 108: 17, 108: 18, 109: 7, 110: 24,  
 111: 5, 113: 19, 115: 11, 117: 20, 125: 13  
**You've** - 82: 8, 97: 14, 99: 16, 112: 7  
**younger** - 43: 7, 100: 11, 104: 12  
**Your** - 16: 9, 27: 23, 39: 14, 52: 17,  
 52: 21, 58: 12, 78: 17, 91: 16, 100: 11,  
 115: 16, 120: 13, 121: 7, 123: 3, 124: 12  
**your** - 2: 6, 4: 2, 10: 24, 11: 13, 12: 11,  
 12: 12, 12: 22, 12: 23, 13: 13, 14: 11, 15: 8,  
 15: 9, 15: 14, 15: 18, 15: 22, 15: 23, 17: 7,  
 17: 14, 17: 17, 18: 13, 18: 17, 18: 20,  
 18: 23, 18: 25, 19: 4, 19: 8, 19: 19, 19: 20,  
 20: 23, 20: 24, 20: 25, 21: 7, 21: 9, 23: 15,  
 23: 17, 24: 13, 24: 21, 25: 4, 25: 5, 25: 11,  
 25: 15, 25: 17, 26: 22, 27: 7, 27: 8, 27: 10,  
 27: 11, 27: 21, 28: 5, 28: 19, 29: 13, 29: 24,  
 29: 25, 31: 2, 31: 11, 31: 24, 32: 23, 33: 1,  
 33: 11, 33: 18, 34: 4, 34: 18, 34: 19, 35: 14,  
 35: 16, 37: 20, 37: 24, 38: 15, 38: 20,  
 38: 22, 40: 5, 41: 13, 42: 3, 42: 4, 42: 10,  
 43: 5, 43: 8, 45: 10, 45: 14, 46: 12, 49: 13,  
 51: 14, 52: 24, 55: 1, 56: 3, 57: 14, 61: 4,  
 61: 14, 63: 1, 65: 8, 65: 9, 67: 7, 67: 10,  
 67: 25, 69: 17, 70: 8, 70: 12, 70: 21, 72: 9,  
 74: 9, 78: 14, 78: 17, 78: 21, 78: 22, 80: 7,  
 81: 13, 82: 13, 85: 9, 86: 24, 92: 13, 93: 3,  
 93: 5, 97: 14, 97: 21, 98: 3, 100: 20,  
 106: 23, 108: 13, 108: 21, 113: 5, 113: 15,  
 115: 4, 115: 14, 117: 5, 118: 6, 120: 5,  
 120: 15, 120: 21, 121: 5, 121: 18, 121: 20,  
 121: 23, 122: 3, 122: 6, 122: 7, 123: 16,  
 124: 3, 125: 20  
**yours** - 83: 7  
**yourself** - 38: 5, 70: 24, 123: 24  
**Yourselves** - 79: 25, 89: 15, 100: 8